

CHAPTER 64.

CITY MANAGER PLAN.

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64.01 How to organize under this chapter. (1) Any city of the second, third or fourth class may reorganize under the provisions of this chapter, either by enactment of a charter ordinance or by a petition and referendum election as provided by section 66.01 of the statutes. Such petition and election shall be governed by subsections (2) and (5) of section 10.43.

(2) When adopted in the manner hereinbefore provided, the provisions of this chapter shall take effect and become operative on the third Tuesday in April.

Note: The city manager plan abolishes and executive and administrative powers to the elaborate system of checks and balances the manager. *Webb v. Beloit*, 229 W 51, existing in city government, and turns over 281 NW 662.

64.02 Other laws, by-laws and ordinances in force. (1) Any law applicable to any city before its reorganization and not inconsistent with the provisions of this chapter shall apply to and govern such reorganized city.

(2) Any by-law, ordinance, or resolution lawfully passed and in force in any such city at the time of its reorganization shall remain in force until altered or repealed by the council elected under the provisions of this chapter.

(3) The territorial limits of such city shall remain the same as under its former organization.

(4) All rights and property of every description which were vested in such city under its former organization shall remain the same under the reorganization here contemplated.

(5) No right or liability either in favor of or against such reorganized city, and no suit or prosecution of any kind shall be affected by such change of government unless otherwise provided.

64.03 Petition for adoption; contents; question to be voted upon. (1) Every ordinance or resolution for the adoption of this chapter, and every petition for a special election on the same, shall state the number of members of which the council herein provided for shall be composed, the term of office of its members, which term shall not exceed two years, whether they shall be nominated and elected from wards or from the city at large, and the compensation, if any, which they shall receive.

(2) At every election for the adoption of this chapter, the question to be submitted shall be substantially as follows: "Shall the city of (name) be reorganized under chapter 64 of the statutes, providing for the city manager plan, with a council composed of (number stated in petition) members, to be elected from the city (at large), or (by wards) as provided in petition for terms of (number) year(s)?"

64.04 Council, when elected; qualification of electors; nominations. (1) At the election held as provided by law upon the first Tuesday in April next succeeding the adoption of the provisions of this chapter, there shall be elected a council composed as provided in the ordinance or resolution adopted by the council or in the petition and election as provided by section 64.03. Any person possessing the qualifications of an elector in such city shall be eligible to election as councilman.

(2) Except as herein otherwise provided, candidates for councilman shall be nominated and elected after the manner provided by law for the nomination and election of other municipal officers and all provisions of the statutes relating to city primary and general elections not inconsistent with the provisions of this chapter shall apply to such elections for cities reorganized under these sections the same as to cities organized under general law.

64.05 Term of councilmen. (1) The term of office of such councilman shall begin on the third Tuesday in April. If the term of councilman as determined by the election is two years, the term of a bare majority of the members elected at the first election after the adoption of this chapter, consisting of those members receiving the highest number of votes, shall be two years and that of the remaining members shall be one year. At the expiration of the terms of office of the councilmen, successors shall be elected for the full term.

(2) If any vacancy occurs in the office of councilman and the unexpired term shall exceed six months, a special election to fill such vacancy shall be held. If the unexpired term be less than six months, the other members of the council shall at their next meeting appoint some one to fill the vacancy.

64.06 Recall. Any councilman may be recalled from office in accordance with the provisions of section 10.44 of the statutes. This method of removal shall be in addition to the other methods provided by law.

64.07 Powers of council; its organization; quorum; meetings. (1) The council shall possess and exercise all legislative and general ordinance powers imposed and conferred by general law or special charter upon the mayor and common council and the various boards and commissions not inconsistent with this chapter, and in force in such city at the time of its reorganization and such additional powers as are hereinafter imposed and conferred, but such council shall not have the power to enact special executive or administrative orders, it being the intent of this chapter to separate the legislative and executive powers of city government.

(2) At its first meeting the city council shall select by majority vote one of its members to act as president. The president shall be the presiding officer of the council and shall have a vote but shall have no veto power.

(3) A majority of the members of the council shall constitute a quorum, and a majority vote of all the members of the council shall be necessary to adopt any ordinance or resolution.

(4) The ayes and noes shall be called and recorded on the vote upon every ordinance and resolution.

(5) The council shall provide by ordinance for the time of holding regular meetings and special meetings shall be called by the president or by any two councilmen or by the city manager.

(6) All meetings of the council or of any committee thereof, whether regular or special, shall be open to the public.

64.08 Councilmen, their duties and compensation. The councilmen shall devote such time to the duties of their office as the interests and general welfare of the city demand and shall receive such compensation, not to exceed two hundred dollars per year, as determined in the petition, ordinance or resolution provided for in section 64.03. The council shall have power by ordinance to fix the salary of their successors in office, but in no case shall such salary exceed two hundred dollars per year.

64.09 City manager; qualifications, selection, removal. (1) The council first elected after the reorganization of a city under the provisions of this chapter shall as soon after the reorganization as possible engage for an indefinite term a city manager who shall have charge of the executive side of the city government and who shall be responsible for the efficiency of its administration.

(2) The city manager shall be elected purely on merit. In electing the city manager the council shall give due regard to training, experience, executive and administrative ability, and efficiency and general qualifications and fitness for performing the duties of the office, and no person shall be eligible to the office of city manager who is not by training, experience, ability, and efficiency well qualified and generally fit to perform the duties of such office. No weight or consideration shall be given by the council to nationality, political, or religious affiliations, or to any other considerations except merit and direct qualifications for the office.

(3) Residence in the city or state shall not be a qualification for the office of city manager.

(4) The council may advertise for applicants in such newspapers, magazines, advertising agencies, employment bureaus or other advertising mediums and for such length of time as it shall deem necessary to secure applications from the available persons best qualified to fill such office.

(5) The applications, records, recommendations and qualifications of all applicants for the office of city manager shall be immediately placed and thereafter kept on file and shall be matters of public record and open to the examination and inspection of the public at all reasonable times.

(6) The salary of the city manager shall be fixed by the council.

(7) The council shall have the power to remove the city manager at any time that his conduct of the city administration becomes unsatisfactory and to engage a successor after the manner prescribed in this section, but such city manager shall serve until his successor is elected and qualifies.

(8) Before the council shall remove the city manager for any cause other than wilful neglect of duty, malfeasance, or misfeasance in office, it shall give such city manager at least sixty days' notice of its contemplated action and in all cases shall present in writing a statement of the specific grounds or reasons for such removal and shall give such city manager an opportunity to be heard in regard thereto. Such statement of reasons shall be immediately placed and thereafter kept on file and shall be matter of public record open to the examination and inspection of the public at all reasonable times, and such hearing shall be a public hearing.

(9) The action of the council in removing the city manager shall be final.

64.10 City departments, administrative and educational boards. (1) The council shall upon the report and recommendation of the city manager have the power to create general departments of city administration. The report and recommendations of the city manager showing the necessity or desirability of creating such departments shall be placed on file and shall be matters of public record, open to the examination and inspection of the public at all reasonable times.

(2) All administrative boards and commissions existing in such city prior to its reorganization shall continue to exist after its reorganization under this chapter until abolished, altered or reorganized by ordinance of the council. The council shall have power upon the report and recommendation of the city manager to alter, reorganize or abolish by ordinance any administrative board or commission with the exception of the board of education and the board of police and fire commissioners. Each such city not having a board of police and fire commissioners shall provide for the organization of such a board under the provisions of section 62.13 within 30 days after June 21, 1933.

(3) The board of education shall continue to be elected or appointed as provided by law and shall continue to have the same power and authority as possessed prior to the reorganization of such city under this chapter, provided that such board may be discontinued by a vote of the people held in accordance with the provisions of section 10.43 of the statutes, and in such case the powers and duties of such board shall be exercised and performed by the council and city manager in accordance with the general provisions of this chapter. [1933 c. 263; 43.08 (3)]

Note: The provisions of (2) are mandatory, discharge a police officer, but merely suspend the power of removal. Logan v. Two Rivers, 222 W 89, 267 NW 36.

64.11 Powers of city manager, appointments. (1) The city manager shall be the chief executive officer of the city and head of the city administration and shall possess and exercise all the executive and general administrative powers imposed and conferred by general law or special charter upon the mayor and common council and upon the various boards, commissions and officers and in force in such city at the time of its reorganization under this chapter, and such additional powers as are herein imposed and conferred.

(2) The city manager shall have the power to create minor administrative offices and positions and to discontinue such offices and positions according to his judgment of the needs of the city.

(3) The city manager shall have the power to appoint all heads of departments, all subordinate city officials and all city employes and to remove such appointees at any time their services or the conduct of their offices becomes unsatisfactory to him; provided, that this subsection shall not be construed as depriving the board of fire and police commissioners of any city of all the powers conferred by section 62.13.

(4) No head of a department, city official, or city employe shall be appointed for a fixed term, but during good behavior and satisfactory service.

(5) All appointments shall be purely on merit and with a view to securing the best available appointee for the place. Due consideration shall be given to training, experience, ability, and general qualifications and fitness for performing the duties of the office and no weight or consideration shall be given to residence, nationality, or to political or religious affiliations.

(6) Residence in the city or state shall not be a qualification for any such appointment.

(7) The applications, records, recommendations and qualifications of all applicants shall be immediately placed and thereafter kept on file and shall be matters of public record subject to the examination and inspection of the public at all reasonable times.

(8) In the event that such a city has established under the provisions of section 66.19 a civil service system, then the powers and duties of the city manager as provided in this

section shall be limited and governed by such rules and regulations as may be promulgated under such civil service system. [1931 c. 142; 1941 c. 324]

Note: Where the city council abolished the fire and police commission after the city manager plan had been adopted, the council had power to decrease the salaries without previous recommendation by the city manager. *Webb v. Boloit*, 229 W 51, 281 NW 662.

64.12 City manager to present monthly reports and accounts. (1) The city manager shall each month prepare and present to the council a summarized statement of the income and expenditures of the city for the preceding month arranged in standard form and detailed as to appropriations, funds, and character of expenditures.

(2) Such summaries shall be accompanied by a general account balance sheet, a capital account balance sheet, a statement of current assets and liabilities, a statement of funded assets and liabilities, and a consolidated financial statement showing the exact financial condition of the city at the end of such month. The city manager shall also prepare and present to the council such other detailed schedules and statements of account as the council may by ordinance require.

(3) All such summaries, schedules, and statements, together with a summary of the acts and proceedings of the common council for such month, shall be published in pamphlet form and copies thereof shall be furnished to all the newspapers and libraries of the city and to all persons who shall apply therefor.

(4) At the end of each fiscal year the council shall cause a full and complete examination of all the books and accounts of the city to be made by competent public accountants who shall report in full to the council. The summaries of such audits shall be presented and furnished to all newspapers and libraries of the city and to such other persons as shall apply therefor.

64.13 First council may revise appropriations already made; state commission work continued. (1) If at the beginning of the term of office of the first council elected under this chapter the appropriations for the expenditures of the city government for the current fiscal year have been made, the council shall have power by ordinance to revise, repeal, or change such appropriations and to make additional appropriations.

(2) Any city work done under the direction of commissions appointed by the state shall continue to be done in the manner prescribed by law prior to the reorganization of such city under this chapter.

64.14 City may return to its former government. Any city which shall have adopted the provisions of this chapter may abandon the same and reorganize under the provisions of chapters 62 or 63, or under a home rule charter by proceeding in accordance with the provisions of section 64.01.

Note: Charter ordinance purporting to abandon city-manager form of government and restore mayor-alderman plan under chapter 62, Stats., must not conflict with chapter 62, 26 Atty. Gen. 43.

64.15 Village manager plan. The provisions of chapter 64 of the statutes shall also apply to villages, and such plan shall be known in villages as the village manager plan. Provided, however, that in villages adopting such plan, the council shall be composed of the board of trustees.