

THE FOURTH CLASS CITY ACT (EXCERPT)

Act 215 of 1895

CHAPTER VII

DUTIES AND COMPENSATION OF OFFICERS.

MAYOR.

87.1 Mayor; duties.

Sec. 1. The mayor shall be the chief executive officer of the city. He shall preside at the meetings of the council and shall from time to time give the council information concerning the affairs of the corporation, and recommend such measures as he may deem expedient. It shall be his duty to exercise supervision over the several departments of the city government, see that the laws relating to the city and the ordinances and regulations of the council are enforced.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3023;—CL 1915, 2939;—CL 1929, 1863;—CL 1948, 87.1.

87.2 Mayor; conservator of peace; limitation.

Sec. 2. The mayor shall be a conservator of the peace, and may exercise within the city the powers conferred upon sheriffs to suppress disorder; and shall have authority to command the assistance of all able bodied citizens to aid in the enforcement of the ordinances of the council, and to suppress riot and disorderly conduct. Unless otherwise provided in the city charter the mayor is not a law enforcement officer within the meaning of section 18 of Act No. 8 of the Public Acts of the extra session of 1933, as amended, being section 436.18 of the Compiled Laws of 1948.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3024;—CL 1915, 2940;—CL 1929, 1864;—CL 1948, 87.2;—Am. 1969, Act 237, Imd. Eff. Aug. 11, 1969.

87.3 Mayor; suspension of appointed officers, procedure; records, inspection.

Sec. 3. The mayor may suspend any officer appointed by him at any time for neglect of duty, misconduct or other sufficient cause: Provided, That a written complaint under oath shall be preferred against said officer and filed with the city clerk. Said complaint shall be reasonably certain as to time, place and the offense, or offenses, charge therein, and a copy thereof served personally on such person or left with a person of suitable age at the last known place of residence of such suspended person, within 3 days after such suspension. The said officer shall have the privilege of filing answer to said complaint within 5 days after service of copy of said complaint as above provided. The council shall hear such complaint and defense thereto, if any, at the next regular meeting thereof: Provided, Said regular meeting shall occur within a time not less than 10 and not more than 15 days after the date of the filing of said complaint, otherwise a special meeting shall be called for the purpose of such hearing, and within the time herein limited. Should no complaint be filed within the time herein provided, or be not sustained at the hearing thereof, said officer may resume the duties of his office as if such suspension had never been made.

He shall at all times have authority to examine and inspect the books, records and papers of any agent, employe or officer of the corporation, and shall perform generally all such duties as are or may be prescribed by the ordinances of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3025;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 2941;—CL 1929, 1865;—CL 1948, 87.3.

87.4 Mayor; vacancy in office, president pro tem.

Sec. 4. In the absence or disability of the mayor, or in case of any vacancy in his office, the president pro tempore of the council shall perform the duties of mayor during such absence, disability or vacancy.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3026;—CL 1915, 2942;—CL 1929, 1866;—CL 1948, 87.4.

ALDERMEN.

87.5 Aldermen; powers, duties.

Sec. 5. The aldermen of the city shall be members of the council, and attend the meetings thereof, and act upon committees, when thereupon appointed by the mayor or council. They shall be conservators of the peace, and as such they shall aid in maintaining quiet and good order in the city, and in securing the faithful performance of duty by all officers of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3027;—CL 1915, 2943;—CL 1929, 1867;—CL 1948, 87.5.

CITY CLERK.

87.6 City clerk; powers, duties.

Sec. 6. The city clerk shall keep the corporate seal, and all the documents, official bonds, papers, files and records of the city, not by this act or the ordinances of the city entrusted to some other officer; he shall be clerk of the council; shall attend its meetings, record all its proceedings, ordinances and resolutions, and shall countersign and register all licenses granted; he shall, when required, make and certify under the seal of the city copies of the papers and records filed and kept in his office; and such copies shall be evidence in all places of the matters therein contained, to the same extent as the original would be; he shall possess and exercise the powers of a township clerk, so far as the same are required to be performed within the city; and he shall have authority to administer oaths and affirmations.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3028;—CL 1915, 2944;—CL 1929, 1868;—CL 1948, 87.6.

87.7 City clerk; general accountant; tax reports.

Sec. 7. The clerk shall be the general accountant of the city; and all claims against the corporation shall be filed with him for adjustment, and, after examination thereof, he shall report the same, with all accompanying vouchers and counter claims of the city, and the true balance as found by him, to the council, for allowance, and when allowed shall draw his warrant upon the treasurer for the payment thereof, designating thereon the fund from which payment is to be made, and take proper receipts therefor, but no warrant shall be drawn upon any fund after the same has been exhausted. When any tax or money shall be levied, raised or apportioned, the clerk shall report the amount thereof to the city treasurer, stating the objects and funds for which it is levied, raised, or appropriated, and the amounts thereof to be credited to each fund.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3029;—CL 1915, 2945;—CL 1929, 1869;—CL 1948, 87.7.

87.8 Supervision duties over moneys and property; accounts.

Sec. 8. The clerk shall exercise a general supervision over all officers charged in any manner with the receipt, collection and disbursement of the city revenues and over all the property and assets of the city; he shall have charge of all books, vouchers and documents relating to the accounts, contracts, debts and revenues of the corporation; he shall countersign and register all bonds issued, and keep a list of all property and effects belonging to the city, and of all its debts and liabilities; he shall keep a complete set of books, exhibiting the financial condition of the corporation and all its departments, funds, resources and liabilities, with a proper classification thereof and showing the purpose for which each fund was raised; he shall also keep an account with the treasurer, in which he shall charge him with all moneys received for each of the several funds of the city, and credit him with all the warrants drawn thereon, keeping a separate account with each fund; when any fund has been exhausted, the clerk shall immediately advise the council thereof.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3030;—CL 1915, 2946;—CL 1929, 1870;—CL 1948, 87.8.

87.9 Financial report to council.

Sec. 9. The clerk shall report to the council, whenever required, a detailed statement of the receipts, expenditures, and financial condition of the city, of the debts to be paid, and moneys required to meet the estimated expenses of the corporation, and shall perform such other duties pertaining to his office as the council may require.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3031;—CL 1915, 2947;—CL 1929, 1871;—CL 1948, 87.9.

87.10 Deputy; appointment, duties; responsibility of clerk.

Sec. 10. The clerk may, subject to the approval of the council, appoint a deputy, who shall possess all the powers and authority of the city clerk, and may exercise all the duties thereof, subject to the control of such clerk, and such deputy shall be paid for his services by the clerk, unless otherwise provided by the council. The clerk shall be responsible for all the acts and defaults of such deputy, and he may remove such deputy at his pleasure.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3032;—CL 1915, 2948;—CL 1929, 1872;—CL 1948, 87.10.

CITY TREASURER.

87.11 City treasurer; powers; duties; depositary, bond; deputy.

Sec. 11. The treasurer, subject to the direction of the council, shall have the custody of all moneys, bonds, mortgages, notes, leases and evidences of value belonging to the city: Provided, That the council by a majority vote of all the aldermen elect may designate 1 or more depositaries in such city in which the city treasurer shall deposit all such moneys and other property named above in his possession by virtue of his office, to be drawn therefrom only in such manner as the council shall direct, and every such depositary shall

furnish a bond, as the council may require and approve, for the safekeeping and accounting of all such moneys and property thus coming into its possession. The council may at any time by a majority vote of all the aldermen elect change any depositary or depositaries. He shall receive all moneys belonging to and receivable by the corporation, and keep account of all receipts and expenditures thereof: Provided, That the treasurer shall not be liable for any neglect or default by such depositary or depositaries. The treasurer shall pay no money out of the treasury except in pursuance of and by authority of law and as directed by the council. He shall keep an account of and be charged with all taxes and moneys appropriated, raised or received for each fund of the corporation, and shall keep a separate account of each fund, and shall credit thereto all moneys raised, paid in or appropriated therefor, and shall pay every warrant out of the particular fund constituted or raised for the purpose for which the warrant was issued, and having the name of such fund endorsed thereon by the clerk. The treasurer may also, subject to the approval of the council, appoint a deputy, who shall possess all the powers and authority of the treasurer, subject to the control of the treasurer; and the treasurer and his bondsmen shall be liable for the acts and defaults of such deputy. Such deputy shall be paid for his services by the treasurer, unless otherwise provided by the council, and such deputy may be removed at the will of the treasurer. The city treasurer shall be the collector of state and county taxes within the city, and all other taxes and assessments levied within the city; he shall perform all such duties in relation to the collection of taxes as the council may prescribe, and as provided by this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3033;—Am. 1901, Act 156, Imd. Eff. May 22, 1901;—CL 1915, 2949;—CL 1929, 1873;—CL 1948, 87.11.

87.12 Financial reports; time.

Sec. 12. The treasurer shall render to the clerk on the first Monday of every month, and oftener if required, a report of the amounts received and credited by him to each fund, and on what account received, and the amounts paid out by him from each fund during the preceding month, and the amount of money remaining in each fund on the day of his report, and the council may at any time when they shall deem it advisable cause such report to be verified by a personal examination of the books, warrants, vouchers and city moneys in the possession of the treasurer. He shall also exhibit to the council annually on the first Monday in March, and as often and for such period as the council shall require, a full and detailed account of the receipts and disbursements of the treasury since the date of his last annual report, classifying them therein by the funds to which such receipts are credited and out of which such disbursements are made, and the balances remaining in each fund; which account shall be filed in the office of the clerk and shall be published in one or more of the newspapers of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3034;—CL 1915, 2950;—CL 1929, 1874;—CL 1948, 87.12.

87.13 Payment receipts and vouchers.

Sec. 13. The said treasurer shall take receipts and vouchers for all moneys paid from the treasury, showing the amount and fund from which payment was made, and he shall exhibit to the council such receipts or vouchers on the first Monday of March in each year, or as often as the council shall require, as provided in the next preceding section.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3035;—CL 1915, 2951;—CL 1929, 1875;—CL 1948, 87.13.

87.14 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: The repealed section pertained to city treasurer as treasurer of school district.

87.15 Public moneys; prohibited handling; removal from office.

Sec. 15. The city treasurer shall keep all moneys in his hands belonging to the city and to the public schools, separate and distinct from his own moneys; and he is hereby prohibited from using, either directly or indirectly, the corporation moneys, warrants, or evidences of debt, or any of the school or library funds in his custody or keeping, for his own use or benefit or that of any other person; any violation of this section shall subject him to immediate removal from office by the council, and the council is hereby authorized to declare the office vacant and to appoint his successor for the remainder of his term.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3037;—CL 1915, 2953;—CL 1929, 1877;—CL 1948, 87.15.

CITY MARSHAL.

87.16 City marshal; chief of police and peace officer; duties.

Sec. 16. The marshal shall be the chief of the police of the city. As police officer, he shall be subject to the direction of the mayor. It shall be his duty to see that all the ordinances and regulations of the council, made for the preservation of quiet, good order, and for the safety and protection of the inhabitants of the city are

promptly enforced.

As peace officer he shall be vested with all the powers conferred upon sheriffs for the preservation of quiet and good order. He shall serve and execute all process directed or delivered to him and such process may be served anywhere within the state.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3038;—CL 1915, 2954;—CL 1929, 1878;—CL 1948, 87.16.

87.17 City marshal; suppression of riots.

Sec. 17. He shall suppress all riots, disturbances, and breaches of the peace, and for that purpose may command the aid of the citizens in the performance of such duty. It shall be his duty to arrest all disorderly persons in the corporation. He shall arrest upon view, and with or without process, any person found in the act of committing any offense against the laws of the state or the ordinances of the city amounting to a breach of the peace, and forthwith take such person before the proper magistrate or court for examination or trial, and may also without process arrest and imprison persons found drunk in the streets.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3039;—CL 1915, 2955;—CL 1929, 1879;—CL 1948, 87.17.

87.18 Monthly report to council; contents; moneys, disposition.

Sec. 18. The marshal shall report in writing and on oath to the council at their first meeting in each month all arrests made by him, and the cause thereof, and all persons discharged from arrest during the month; also the number remaining in confinement for breaches of the ordinances of the city, and the amount of all fines and fees collected by him. All moneys collected or received by the marshal, except fees for his personal services, unless otherwise directed by this act, shall be paid into the city treasury during the same month when received, and the treasurer's receipt therefor shall be filed with the clerk.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3040;—CL 1915, 2956;—CL 1929, 1880;—CL 1948, 87.18.

87.19 Fees.

Sec. 19. The marshal may collect and receive the same fees for services performed by him as are allowed to constables for like services; but in no case shall such fees be charged to, or be paid by, the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3041;—CL 1915, 2957;—CL 1929, 1881;—CL 1948, 87.19.

CITY ATTORNEY.

87.20 City attorney; duties.

Sec. 20. The attorney, in addition to the other duties prescribed in this act, shall be the legal adviser of the council and of all officers of the city, shall act as the attorney and solicitor for the corporation in all legal proceedings in which the corporation is interested, and, except as otherwise provided by law, shall prosecute violations of the ordinances of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3042;—CL 1915, 2958;—CL 1929, 1882;—CL 1948, 87.20;—Am. 1994, Act 19, Eff. May 1, 1994.

CITY SURVEYOR.

87.21 City surveyor; powers, duties.

Sec. 21. The surveyor shall have and exercise within the city, the like powers and duties as are conferred by law upon county surveyors; and the like effect and validity shall be given to his official acts, surveys and plats, as are given by law to the acts and surveys of county surveyors. He shall make all necessary plats, maps, surveys, diagrams and estimates, plans and specifications required by the council or officers of the city, relating to the public improvements, buildings, grounds and streets of the city, and all plats, maps, surveys and diagrams made by him as such surveyor shall be the property of the city, and shall be delivered by him to his successor in office.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3043;—CL 1915, 2959;—CL 1929, 1883;—CL 1948, 87.21.

STREET COMMISSIONER.

87.22 Street commissioner; duties.

Sec. 22. It shall be the duty of the street commissioner to perform or cause to be performed, all such labor, repairs and improvements upon the highways, streets, sidewalks, alleys, bridges, reservoirs, drains, culverts, sewers, public grounds and parks within the city as the council shall direct to be done by or under his supervision; and to oversee and do whatever may be required of him in relation thereto by the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3044;—CL 1915, 2960;—CL 1929, 1884;—CL 1948, 87.22.

87.23 Monthly report to council; contents; marshal as street commissioner.

Sec. 23. He shall make a report to the council, in writing and on oath, once in each month, giving an exact statement of all labor performed by him, or under his supervision, and the charges therefor, the amount of material used, and the expense thereof, and the street or place where such material was used, or labor performed; and further showing the items and purpose of all expenses incurred since his last preceding report, and no payment for labor or services performed, or for expenses incurred by him shall be made until reported on oath, as aforesaid: Provided, That nothing in this act shall prevent the council from bestowing the powers and duties of street commissioner upon the marshal when it shall be deemed advisable.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3045;—CL 1915, 2961;—CL 1929, 1885;—CL 1948, 87.23.

CONSTABLES.

87.24 Constables; powers, duties.

Sec. 24. The constables of the city shall have the like powers and authority in matters of civil and criminal nature, and in relation to the service of all manner of criminal process, as are conferred by law upon constables in townships, and shall receive the like fees for their services. They shall have power also to serve all process issued for breaches of ordinances of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3046;—CL 1915, 2962;—CL 1929, 1886;—CL 1948, 87.24.

87.25 Neglect or refusal to perform duty; penalty; bond.

Sec. 25. The constables of the city shall obey the lawful orders of the mayor, and aldermen and shall discharge the duties required of them by ordinance, resolution, or regulation of the council. For neglect or refusal to perform a required duty, each constable shall be subject to a penalty of not less than \$5.00 nor more than \$50.00. Before assuming the duties of office, each constable shall give the bonds for the performance of the duties of that office as are required and approved by the council and shall file the bonds with the city clerk.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3047;—CL 1915, 2963;—CL 1929, 1887;—CL 1948, 87.25;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

SUPERVISORS.

87.26 Supervisors; powers, duties; representation upon county board.

Sec. 26. The supervisors of the several wards are authorized to perform the same duties in relation to the assessment of property and levying taxes for all purposes in their respective wards, as are imposed by law upon supervisors elected in townships; and they shall have the like powers and perform the like duties in all other respects as supervisors so elected, except as herein otherwise provided, so far as such powers and duties are required to be exercised and performed in their wards; they shall represent their several wards in the board of supervisors of the county in which the city is located, and shall have all rights, privileges and powers of the several members of such board of supervisors: Provided, That any city now having a greater representation upon the board of supervisors of any county than is provided by this act, shall continue to have such representation as it may have at the time of such reincorporation, and if the office of any officer now representing any such city upon the board of supervisors is abolished by this act, the council of such city may annually appoint some suitable person, being a resident elector of such city, to represent the city upon the board of supervisors in the place of such officer whose office has been abolished.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3048;—CL 1915, 2964;—CL 1929, 1888;—CL 1948, 87.26.

87.27 Selection of jury lists.

Sec. 27. The supervisors of the several wards shall, except in counties having a jury commission, select and return lists of grand and petit jurors to the clerk of the county, in the same manner and within the same time as the like duty is required to be performed by township officers.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3049;—CL 1915, 2965;—CL 1929, 1889;—CL 1948, 87.27.

JUSTICES OF THE PEACE.

87.28-87.36 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

87.37 Additional powers and liabilities of officers.

Sec. 37. In addition to the rights, powers, duties and liabilities of officers prescribed in this act, all officers, whether elected or appointed, shall have such other rights, powers, duties and liabilities, subject to and

consistent with this act, as the council shall deem expedient, and prescribe by ordinance or resolution.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3059;—CL 1915, 2975;—CL 1929, 1899;—CL 1948, 87.37.

COMPENSATION OF OFFICERS.

87.38 City officers; compensation; fees.

Sec. 38. The mayor shall receive an annual salary as the council determines and aldermen may each receive a salary as prescribed by the council. The city marshal, clerk, treasurer, city attorney, and engineer of the fire department shall each receive an annual salary as the council determines by ordinance. Constables and officers serving process and making arrests, when engaged in causes and proceedings for violations of the ordinances of the city, may charge and receive the fees allowed to those officers for the same services by the laws of the state. Except as otherwise provided in this act, other officers elected or appointed in the city, shall receive the compensation determined by the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3060;—Am. 1915, Act 209, Eff. Aug. 24, 1915;—CL 1915, 2976;—CL 1929, 1900;—CL 1948, 87.38;—Am. 1957, Act 268, Eff. Sept. 27, 1957;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

87.39 Increase or diminishment of salary during term prohibited; exception; eligibility for office resigned or vacated.

Sec. 39. The salary or rate of compensation for any officer elected by authority of this act shall not be increased or diminished during the term of office, except as provided in section 40; and no person who shall have resigned or vacated any elective office shall be eligible to the same office during the term for which he was elected or appointed when during the same time the salary or rate of compensation has been increased except in the event of an increase pursuant to section 40.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3061;—CL 1915, 2977;—CL 1929, 1901;—CL 1948, 87.39;—Am. 1973, Act 39, Imd. Eff. June 28, 1973.

87.40 Ordinance establishing alternate procedure for determining salaries; local officials compensation commission; resolution; petition for referendum; changing procedure by charter amendment or revision.

Sec. 40. (1) In lieu of the procedure in section 38, as amended, for determining salaries of elected officials, the council by ordinance may establish the procedure described in this section, in which case the restriction contained in section 39 with respect to changing salaries during term shall be inapplicable. The ordinance shall provide:

(a) A local officials compensation commission is created. It shall determine the salaries of city elected officials. The commission shall consist of 5 members who are registered electors of the city, appointed by the mayor subject to confirmation by a majority of the members elected and serving on the council. The terms of office shall be 5 years, except that of the members first appointed, 1 each shall be appointed for terms of 1, 2, 3, 4, and 5 years. All first members shall be appointed within 30 days after the effective date of the ordinance. Thereafter members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of an unexpired term. No officer or employee of any government agency or unit or member of the immediate family of such an officer or employee shall be eligible to be appointed to the commission.

(b) The commission shall determine the salaries of the city elected officials which determination shall be the salaries unless the legislative body by resolution adopted by 2/3 of the members elected to and serving on the council rejects the determinations. The determinations of the commission shall be effective 30 days following their filing with the city clerk unless rejected by the council. In case of rejection, the existing salary shall prevail. Any expense allowance or reimbursement paid to elected officials in addition to salary shall be for expenses incurred in the course of city business and accounted for to the city.

(c) The commission shall meet for not more than 15 session days in 1973 and every odd numbered year thereafter and shall make its determination within 45 calendar days of its first meeting. A majority of the members of the commission constitutes a quorum for conducting the business of the commission. The commission shall take no action or make determinations without a concurrence of a majority of the members appointed and serving on the commission. The commission shall elect a chairman from among its members. "Session days" means any calendar day on which the commission meets and a quorum is present. The members of the commission shall receive no compensation, but shall be entitled to actual and necessary expenses incurred in the performance of their duties.

(2) The council may implement the provisions of the ordinance by resolution including the date for convening the commission.

(3) Within 60 days after the effective date of the ordinance, a petition for a referendum on the ordinance

may be filed with the city clerk containing the signatures of at least 5% of the registered electors of such city on the effective date of the ordinance in which case the election shall be conducted in the same manner as an election on a charter amendment. If a petition for referendum is filed, any determination of the commission shall not be effective until the ordinance has been approved by the electors.

(4) After 1 year following the effective date of the ordinance, the procedure for establishing the compensation of city elected officials may be changed by charter amendment or revision.

History: Add. 1973, Act 39, Imd. Eff. June 28, 1973.