

THE FOURTH CLASS CITY ACT (EXCERPT)

Act 215 of 1895

CHAPTER VIII

THE CITY COUNCIL.

88.1 City council; members.

Sec. 1. The legislative authority of cities incorporated under this act shall be vested in a council consisting of the mayor, two aldermen elected from each ward and the city clerk.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3062;—CL 1915, 2978;—CL 1929, 1902;—CL 1948, 88.1.

88.2 Mayor to be president.

Sec. 2. The mayor shall be president of the council, and preside at the meetings thereof, but shall have no vote therein, except in case of a tie, when he shall have the casting vote.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3063;—CL 1915, 2979;—CL 1929, 1903;—CL 1948, 88.2.

88.3 President pro tempore; powers, duties.

Sec. 3. On the first Monday in May in each year, the council shall appoint 1 of their number president pro tempore of the council, who, in the absence of the president, shall preside at the meetings thereof, and exercise the powers and duties of president. He shall have a vote upon all questions, but he shall have no casting vote in case of a tie. In the absence of the president and president pro tem, the council shall appoint 1 of their number to preside and for the time being he shall exercise the powers and duties of the president.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3064;—CL 1915, 2980;—CL 1929, 1904;—CL 1948, 88.3.

88.4 Clerks; duties.

Sec. 4. The city clerk shall be clerk of the council, but shall have no vote therein. He shall keep a full record of all the proceedings of the council, and perform such other duties relating to his office as the council may direct. In the absence of the clerk or his deputy the council shall appoint 1 of their number to perform the duties of clerk for the time being.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3065;—CL 1915, 2981;—CL 1929, 1905;—CL 1948, 88.4.

88.5 Aldermen; required attendance; loss of vote, interest.

Sec. 5. Each alderman shall be required to attend all sessions of the council, and serve upon committees when appointed thereon. No alderman shall vote on any question in which he shall have a direct personal interest, but on all other questions he shall vote unless excused therefrom by a vote of 2/3 of the aldermen elect.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3066;—CL 1915, 2982;—CL 1929, 1906;—CL 1948, 88.5.

88.6 Election returns; qualification of membership; meetings, notice.

Sec. 6. The council shall be judge of the election returns and qualifications of its own members. It shall hold regular stated meetings for the transaction of business, at such times and places within the city as it shall prescribe, not less than 2 of which shall be held in each month. The mayor or any 3 members of the council may call special meetings thereof, notice of which, in writing, shall be given to each alderman, or be left at his place of residence at least 6 hours before the meeting.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3067;—CL 1915, 2983;—CL 1929, 1907;—CL 1948, 88.6.

88.7 Conducting business at public meeting; notice; quorum; adjournment; pending business; compelling attendance of absent members; concurring vote required for certain actions; reconsidering or rescinding vote at special meeting; appropriation of money; passing or adopting resolution.

Sec. 7. (1) The business which the council may perform shall be conducted at a public meeting of the council held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A majority of the aldermen shall constitute a quorum for the transaction of business. A number less than a majority may adjourn a meeting, and all pending business noticed or set down for hearing at that meeting shall be taken up and heard at the next meeting.

(3) Members present may compel the attendance of absent members in the manner as prescribed by rule or

ordinance. An office shall not be created or abolished; nor a tax or assessment imposed; a street, alley, or public ground vacated; real estate or interest in real estate purchased, leased, sold, or disposed of; or private property taken for public use, unless by a concurring ye and nay vote of 2/3 of all the aldermen elected to office. A vote of the council shall not be reconsidered or rescinded at a special meeting, unless there are present as many aldermen as were present when that vote was taken.

(4) Money shall not be appropriated except by ordinance or resolution of the council. A resolution shall not be passed or adopted except by the vote of a majority of all the aldermen elected to office, except as prescribed in this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3068;—CL 1915, 2984;—CL 1929, 1908;—CL 1948, 88.7;—Am. 1978, Act 222, Imd. Eff. June 13, 1978.

88.8 Rules for council proceedings; record or journal of proceedings; availability of writings to public; taking votes; entering votes on journal; publication of record and votes.

Sec. 8. (1) The council shall prescribe rules for council proceedings, and keep a record or journal of the proceedings. A writing prepared, owned, used, in the possession of, or retained by the council in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) Votes shall be taken by yeas and nays when required by 1 or more members and the votes shall be entered upon the journal indicating the names of those voting in the affirmative and those in the negative. Within 10 days after a meeting of the council, the record of the proceeding, and votes taken at the proceeding shall be published in a newspaper of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3069;—CL 1915, 2985;—CL 1929, 1909;—CL 1948, 88.8;—Am. 1978, Act 222, Imd. Eff. June 13, 1978.

88.9 Compelling attendance at meetings; fines for nonattendance; sanctions for disorderly conduct; ordinance.

Sec. 9. The council, by ordinance, may compel the attendance of council members and other officers of the city at its meetings, may enforce fines for nonattendance of a member or officer, and may prescribe sanctions for any misbehavior or contemptuous or disorderly conduct by a member or a person present at a session of the council. The ordinance shall not conflict, as written or applied, with section 3 of the open meetings act, Act No. 267 of the Public Acts of 1976, being section 15.263 of the Michigan Compiled Laws.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3070;—CL 1915, 2986;—CL 1929, 1910;—CL 1948, 88.9;—Am. 1978, Act 222, Imd. Eff. June 13, 1978;—Am. 1994, Act 19, Eff. May 1, 1994.

88.10 City officers; attendance at meetings; public attendance and participation not prohibited.

Sec. 10. (1) The attorney, marshal, street commissioner, surveyor, and engineer of the fire department may take part in proceedings and deliberations of the council on subjects relating to their respective departments, subject to rules prescribed by the council, but without the right to vote. The officers may be required to attend the meetings of the council in the same manner as members.

(2) Subsection (1) shall not prohibit public attendance and participation at a meeting as prescribed under section 7.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3071;—CL 1915, 2987;—CL 1929, 1911;—CL 1948, 88.10;—Am. 1978, Act 222, Imd. Eff. June 13, 1978.

88.11 Powers of council; control of finances, property.

Sec. 11. The council shall have control of the finances and of all property of the city corporation, except as may be otherwise provided by law.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3072;—CL 1915, 2988;—CL 1929, 1912;—CL 1948, 88.11.

88.12 Powers of council; ordinances, enactment.

Sec. 12. Whenever by this act or any other provisions of law any power or authority is vested in, or duly imposed upon, the corporation or council, the council may enact such appropriate ordinances as may be necessary for the execution and exercise of such power and authority, and to regulate the performance of such duty.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3073;—CL 1915, 2989;—CL 1929, 1913;—CL 1948, 88.12.

88.13 Powers of council; standing committees; appointment, duties.

Sec. 13. The council may provide for the appointment of standing committees of its members, who shall

perform such duties, investigate, have charge of, and report upon such matters as may be properly referred to them.

Such committees shall be appointed by the mayor, subject to the approval of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3074;—CL 1915, 2990;—CL 1929, 1914;—CL 1948, 88.13.

88.14 Records, books, documents, or papers; location; filing; inspection; defacement or destruction; violation; penalty.

Sec. 14. (1) The council shall cause the records of the corporation, records of the proceedings of the council, and all books, documents, reports, contracts, receipts, vouchers, and papers relating to the finances and affairs of the city, or to the official acts of an officer of the corporation, unless required by this act to be kept elsewhere, to be deposited and kept in the office of the city clerk. The records shall be arranged, filed, and kept to facilitate convenient access and inspection. These records, books, and papers shall be subject to inspection by any person in compliance with Act No. 442 of the Public Acts of 1976.

(2) A person shall not secrete, injure, deface, alter, or destroy the books, records, documents, or papers described in subsection (1), or expose them to loss or destruction.

(3) A person who violates subsection (2) with intent to prevent the contents or true meaning or import of the records from being known, is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than \$1,000.00, or by both.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3075;—CL 1915, 2991;—CL 1929, 1915;—CL 1948, 88.14;—Am. 1978, Act 222, Imd. Eff. June 13, 1978.

88.15 Members; compensation.

Sec. 15. No member of the council shall receive any compensation for his services, either as alderman, committeeman or otherwise, except as herein provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3076;—CL 1915, 2992;—CL 1929, 1916;—CL 1948, 88.15.

88.16 Repealed. 1968, Act 317, Eff. Sept. 1, 1968.

Compiler's note: The repealed section provided that city council members not be interested in contracts; penalty; exception.

88.17 Removal from office; preferring charges against and trying officers.

Sec. 17. A person appointed to office by the council under this act, may be removed from office by a vote of the majority of the aldermen elect. The council may remove from office an alderman by a concurring vote of 2/3 of all the aldermen elect. For elective officers other than aldermen, provisions shall be made by ordinance for preferring charges against and trying these officers. Removal of an elective officer other than an alderman shall not be made except by a 2/3 vote of all the aldermen elect and unless a charge in writing is preferred and an opportunity given to make a defense to the charge.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3078;—CL 1915, 2994;—CL 1929, 1918;—CL 1948, 88.17;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

88.18 Investigation of charges or other matters; procedure.

Sec. 18. To enable the council to investigate charges against an officer, or other matters as they consider proper to investigate, the mayor, at the request of the council, may issue subpoenas or process by warrant, to compel the attendance of persons and the production of books and papers, before the council or a committee of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3079;—CL 1915, 2995;—CL 1929, 1919;—CL 1948, 88.18;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

88.19 Witnesses; summons, oath.

Sec. 19. Whenever the council, or any committee of the members thereof, are authorized to compel the attendance of witnesses for the investigation of matters which may come before them, the presiding officer of the council or chairman of such committee for the time being, shall have power to administer the necessary oaths.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3080;—CL 1915, 2996;—CL 1929, 1920;—CL 1948, 88.19.

88.20 Claims against city; audit, allowance; rules; defense to suit.

Sec. 20. The council shall audit and allow all accounts chargeable against the city but no account or claim or contract shall be received for audit or allowance, unless it shall be accompanied with a certificate of an officer of the corporation, or an affidavit of the person rendering it, to the effect that he verily believes that the services therein charged have been actually performed or the property delivered for the city, that the sums

charged therefor are reasonable and just, and that to the best of his knowledge and belief, no set-off exists, nor payment has been made on account thereof, except such as are endorsed or referred to in such account or claim, and every such account shall exhibit in detail all the items making up the amount claimed, and the true date of each. It shall be a sufficient defense in any court, to any action or proceeding for the collection of any demand or claim against the city for personal injuries or otherwise, that it has never been presented, certified to or verified as aforesaid, to the council for allowance; or if such claim is founded on contract that the same was presented without the affidavit or certificate as aforesaid, and rejected for that reason; or that the action or proceeding was brought before the council had a reasonable time to investigate and pass upon it.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3081;—CL 1915, 2997;—CL 1929, 1921;—CL 1948, 88.20.