

## **CURRENT MISSOURI STATUTES FOR THE COUNCIL-MANAGER FORM OF LOCAL GOVERNMENT**

### **Third class city may adopt city manager form of government--procedure.**

78.430. 1. Any city of the third class, or any city with a population entitling it to become a city of the third class, may become organized under the provisions of sections 78.430 to 78.640 by proceeding in the following manner: Upon petition of voters residing in the city equal in number to twenty-five percent of the votes cast for all candidates for mayor in the last preceding election, the mayor shall by proclamation submit the question of organizing under sections 78.430 to 78.640.

2. The question shall be submitted in substantially the following form:

Shall the city of ..... organize under sections 78.430 to 78.640, RSMo, providing for the city manager form of government?

3. The election thereon shall be conducted, votes canvassed, and results declared in the same manner as provided for by law in respect to other city elections of cities of the third class. If a majority of votes cast on the question is in favor of adopting the optional form of government provided for herein, the city clerk shall transmit to the secretary of state and to the county clerk of the county in which the city is located, duplicate copies of a certificate stating that the question was adopted. The city shall then proceed to organize under sections 78.430 to 78.640, by nomination of candidates and election of councilmen as herein provided. The elections shall be held at the next municipal election following the date of adoption of sections 78.430 to 78.640. If the plan is not adopted, the question of adopting the plan shall not be resubmitted to the voters of the city for adoption for at least one year thereafter, and then the question of adoption may be resubmitted upon a like petition, proclamation and notice as provided above.

(RSMo 1939 § 7080, A.L. 1957 p. 240, A.L. 1961 p. 198, A.L. 1978 H.B. 971)

### **Laws shall apply, when--limits of city to remain same.**

78.440. All laws governing any city under its former organization and not inconsistent with the provisions of sections 78.430 to 78.640 shall apply to and govern such city after it adopts the form of government herein provided, or all bylaws, ordinances and resolutions lawfully passed and in force in any such city under its former organization shall remain in force until altered or repealed by the council elected under the provisions of said sections. The territorial limits of such city shall remain the same as under its former organization, and all rights and property of every description which were vested in any city under its former organization shall vest in the same, under the organization herein contemplated, and no right or liability either in favor of or against it existing at the

time, and no suit or prosecution of any kind shall be affected by such change unless otherwise provided for herein. The operation of any of said sections governing cities of the third class, which may be inconsistent with the provisions of said sections, shall be suspended in those cities adopting the said sections.

(RSMo 1939 § 7094)

Prior revision: 1929 § 6944

### **City may abandon plan--procedure--election--form of ballot.**

78.450. 1. Any city which has operated pursuant to the provisions of sections 78.430 to 78.630 may abandon the form of organization provided for in sections 78.430 to 78.630, by proceeding as follows: upon the petition of registered voters residing in the city numbering not less than twenty- five percent of the votes cast in the city in the last gubernatorial election, the question shall be submitted whether the city shall continue operating pursuant to sections 78.430 to 78.630, in the manner provided for the adoption of sections 78.430 to 78.630. Each petition shall contain, in addition to the printed names and signatures of each petitioner:

- (1) The street and house number of each petitioner;
- (2) The age of the petitioner;
- (3) An accompanying affidavit of one or more of the voters of the city. The affidavit shall state:
  - (a) That the signers of the petition were, at the time of signing, voters of the city; and
  - (b) The number of signers of the petition at the time of the making of the affidavit.

2. The question shall be submitted in substantially the following form:

Shall the city manager form of government for the city of ..... be continued?

3. If a majority of the votes cast are against the continuation of the city manager form of government, then the provisions of sections 78.430 to 78.630 and all amendments thereto cease to be effective in the city and the city shall resume the form of government it abandoned when it adopted the plan provided for in sections 78.430 to 78.630, and shall organize thereunder; except that any third class city, desiring to vote on the question to determine whether or not to remain organized under the provisions of sections 78.430 to 78.630, may at the same time submit the question as to what form of government it shall adopt, if there is more than one other form provided for third class cities; but the change of form or organization shall not become effective until the next municipal election thereafter.

### **Ordinances by initiative and referendum, procedure--exceptions --petition protesting an ordinance, procedure for repeal.**

78.573. 1. The council may, by ordinance, adopt procedures for the initiative and referendum as provided in this section and section 78.575.

2. Any proposal to adopt an ordinance except an ordinance appropriating money, emergency ordinances and ordinances for the levying of taxes may be submitted to the council by a petition signed by at least twenty-five percent of the registered voters. The signatures, verification, authentication, inspection, certification, amendment and submission of the petition shall be the same as that provided in section 78.270.

3. When a petition to adopt an ordinance is signed by at least twenty-five percent of the registered voters, the council shall pass the ordinance without alteration, within twenty days of the clerk's certification of the petition, or submit it for a vote at the next municipal or state primary or general election. If a majority of the voters voting on the proposed ordinance vote in favor thereof, it shall thereupon become a valid and binding ordinance of the city.

4. If a petition protesting an ordinance, signed by at least twenty-five percent of the registered voters of the city, is presented to the council, the council shall reconsider such ordinance and, if it is not entirely repealed, submit the ordinance to the voters as provided by subsection 3 of this section. Such ordinance shall not remain in effect after the election unless a majority of the voters voting on the same shall vote in favor thereof. The petition shall be submitted, verified and certified in accordance with the provisions of section 78.270\*.

(L. 1984 S.B. 632)

### **Council to consist of five members--term--vacancies, how filled.**

78.460. The council shall consist of five members, and all persons now eligible for the position of councilman under the laws governing cities of the third class shall be eligible to serve as councilmen under sections 78.430 to 78.640. The term of councilmen shall be three years, except that of the first council elected after the adoption of sections 78.430 to 78.640, one member shall serve for one year, two for two years, and two for three years. Those councilmen receiving the highest number of votes at the first municipal election shall serve for the three-year term, those receiving the next highest shall serve for the two-year term, and the other for the one-year term. In counties of the first class with a charter form of government which have a population of at least nine hundred thousand inhabitants should a vacancy occur in the office of councilman by death, resignation or otherwise, a special election may be called by the council for the purpose of filling the

vacancy, and the person elected at such special election shall serve only for the unexpired term or until his successor is elected and qualified. In all other counties should a vacancy occur in the office of councilman by death, resignation or otherwise, the council shall select a successor who shall serve until the next regular election. All councilmen shall be elected at large. They shall qualify and their terms of office shall begin on the first Monday after their election. The terms of office of the mayor and councilmen or aldermen in such city, in office at the beginning of the terms of office of the council first elected under the provisions of sections 78.430 to 78.640, including all boards and commissions, shall cease and determine and the terms of office of all other city officers, whether elective or appointive, in force in such city except as herein provided shall cease and determine as soon as the council shall by resolution declare, except that the council may continue the board of public works, and the library, hospital and park boards for such time or times after organizing under sections 78.430 to 78.640 as the interests of the city in its judgment may require.

(RSMo 1939 § 7081, A.L. 1978 H.B. 971, A.L. 1982 S.B. 526, A.L. 1991 S.B. 34)

### **Form for submission of the question--repeal or amendment of ordinances adopted by initiative and referendum.**

78.575. 1. The question shall be submitted in substantially the following form:

Shall the following ordinance be (adopted) (repealed)? (Set out ordinance).

2. Any ordinance proposed by petition, or which is adopted by a vote of the people, cannot be repealed or amended by the council for a period of two years after the adoption of the ordinance except by a unanimous vote of all members of the council. Any number of proposed ordinances may be voted upon at the same election. The council may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any municipal election. Should the proposition receive a majority of the votes cast thereon, it shall be repealed or amended accordingly.

(L. 1984 S.B. 632)

### **Organization of city council.**

78.560. 1. The city council shall at the time of organizing elect one of its members as mayor and another as chairman pro tem for a term of one year. In case the members of the city council, within five days after the time herein fixed for their organization meeting, are unable to agree upon a mayor or a chairman pro tem, of such council, then a mayor or chairman pro tem, or both, as the occasion may require, shall be selected from all the members of such council by lot and a record thereof shall be made upon the journal of the council.

2. The mayor shall preside at all meetings of the council and perform such other duties consistent with his office as may be imposed by it; and he shall have a voice and vote in its proceedings, but no veto.

3. The mayor shall be recognized as the official head of the city by the courts for the purpose of serving civil process, by the governor for the purpose of military law, and for all ceremonial purposes. The powers and duties of the mayor shall be such as are conferred upon him by sections 78.430 to 78.640, and no others.

4. If the mayor be temporarily absent from the city, or become temporarily disabled from any cause, his duties shall be performed during such absence or disability by the chairman pro tem. In the absence of both the mayor and chairman pro tem the other members of the city council shall select one of their number to perform the duties of mayor.

(RSMo 1939 § 7084)

Prior revision: 1929 § 6934

### **Powers of council--city manager.**

78.570. 1. Except as herein otherwise provided the council of any city organizing under sections 78.430 to 78.640 shall have all of the powers now or hereafter given to the council or to the mayor and council jointly, under the law by which such city adopting said sections was governed under its former organization; and shall have such power over and control of the administration of the city government as is provided in said sections.

2. It shall be the duty of the council to pass all ordinances and other measures conducive to the welfare of the city and to the proper carrying out of the provisions of sections 78.430 to 78.640. It shall appoint a suitable person not a member of the council to be the administrative head of the city government whose official title shall be "city manager". The council shall also provide for all offices and positions in addition to those herein specified, which may become necessary for the proper carrying on of the work of the city, and shall fix the salary and compensation of all officers and employees of the city not herein provided for. All officers of the city shall be paid in equal monthly installments for their services and all employees of the city shall be paid monthly or at such shorter periods as the council shall determine. The creation of all offices and salaries attached thereto, which may be provided for by the council under sections 78.430 to 78.640, shall be by ordinance, and they shall all be for an indefinite term. The council shall also provide office rooms at the city hall or at some other convenient and suitable place in the city for the transaction of the business of the city and for the convenience of its officers.

(RSMo 1939 § 7087)

### **Quorum to do business.**

78.580. Three members of the council shall constitute a quorum to do business; but no action thereof shall be valid unless at least three shall vote in favor of such action. Upon every vote the yeas and nays shall be called and recorded and every motion, resolution, and ordinance shall be reduced to writing before the vote is taken thereon. Every resolution or ordinance passed by the council must be signed by the mayor or in his absence by the chairman pro tem, or by two members of the council before the same shall be enforced.

(RSMo 1939 § 7085)

### **Meetings of the council--salary determined by city council.**

78.590. Regular meetings of the council shall be held at least once every month and special meetings may be called by the mayor at the mayor's own instance or upon written application of two members of the council. Each council member shall receive a salary as determined by ordinance of the council, payable quarterly.

(RSMo 1939 § 7086, A.L. 2004 H.B. 1047)

### **Officials--appointment.**

78.600. The council shall appoint a city manager, a city clerk, city assessor and city treasurer; the offices of city clerk and city assessor may be filled by one person. All other officers and employees of the city shall be appointed and discharged by the city manager, the council to have power to make rules and regulations governing the same.

(RSMo 1939 § 7088)

Prior revision: 1929 § 6938

## **City manager--duties.**

78.610. The city manager must be a resident of the city at the time of his appointment and shall devote his entire time to the duties of his office. He shall be the administrative head of the government subject to the direction and supervision of the council and shall hold his office at the pleasure of the council, or may be employed for a term not to exceed one year. He shall receive an adequate salary to be fixed by the council which shall not be diminished during the service of any incumbent without his consent. Before entering upon the duties of his office the city manager shall take the official oath required by law and shall execute a bond in favor of the city for the faithful performance of his duties and such sum shall be determined by the city council. It shall be his duty:

- (1) To make all appointments to offices and positions provided for in section 78.600;
- (2) To see that the laws and ordinances are enforced;
- (3) To exercise control of all departments and divisions that may hereafter be created by the council;
- (4) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchises are faithfully kept and performed, and upon information of any violation thereof to take such steps as will be necessary to stop or prevent the further violation of the same;
- (5) To attend all meetings of the council with the privilege of taking part in the discussions but having no vote;
- (6) To recommend to the council for adoption such measures as he may deem necessary or expedient;
- (7) To prepare and submit the annual budget and to keep the city council fully advised as to the financial conditions and needs of the city and to perform such other duties as may be prescribed by these sections or be required of him by any ordinance or resolution of the council.

(RSMo 1939 § 7089, A. 1949 H.B. 2028)

Prior revision: 1929 § 6939

**Manager shall file itemized statements.**

78.620. The council of any city operating under sections 78.430 to 78.640 shall cause the city manager to prepare and file with the council monthly itemized statement of receipts and expenditures of the city, and a summary of the business transacted for the month preceding; and every three months the unpublished reports shall be published in pamphlet form and printed copies thereof shall be furnished the city library, the various newspapers of the city and citizens applying therefor at the office of the city clerk.

(RSMo 1939 § 7092)

**MISSOURI STATUTES FOR OPTIONAL CITY MANAGER  
PLAN OF LOCAL GOVERNMENT**

**Optional city manager form of government--procedure to adopt, election, ballot form.**

78.700. As an alternative to the city manager form of government described in sections 78.430 to 78.640, any city of the third class, or any city with a population entitling it to become a city of the third class, may become organized under the optional city manager form of government as provided in sections 78.700 to 78.720. Upon petition of voters residing in the city equal in number to twenty-five percent of the votes cast within the city for all candidates for governor in the last preceding election, the mayor shall by proclamation submit the question of organizing under sections 78.700 to 78.720. The question shall be submitted in substantially the following form:

Shall the city of ..... organize under sections 78.700 to 78.720, providing for the optional city manager form of government?

(L. 1985 H.B. 244 § 1)

**City may abandon plan, when--procedure, election, ballot form.**

78.703. Any city which has operated under the provisions of sections 78.700 to 78.720 not less than six years may abandon the form of organization provided for herein, by proceeding as follows: Upon the petition of not less than twenty-five percent of the voters casting votes for governor in the last preceding general election of such city, as shown by the total vote cast at the last preceding municipal election of the city, the question shall be submitted whether the city shall continue operating under the provisions of sections 78.700 to 78.720. The question shall be submitted in substantially the following form:

Shall the city manager form of government for the city of ..... be continued?

(L. 1985 H.B. 244 § 2)

**City to be divided into five wards, procedure.**

78.706. If a majority of the votes cast on the question of adoption are in favor of adopting the optional form of government provided in sections 78.700 to 78.720, the existing council shall by ordinance divide the city into five wards of approximately equal population. The council shall then assign an arbitrary designation to each ward and shall cause a lot to be drawn for each ward designated from among the five lots, numbered one through five. The wards shall thereafter be known as wards one, two, three, four and five according to the lot drawn for each.

(L. 1985 H.B. 244 § 3)

**Council to consist of seven members, qualifications--term, vacancies, how filled--quorum.**

78.712. 1. If a city adopts the optional city manager form of government, the council shall consist of seven members, and all persons now eligible for the position of councilman under the laws governing cities of the third class shall be eligible to serve as councilmen under the provisions of sections 78.700 to 78.720, provided that a ward councilman must reside within the ward he represents. One councilman shall be elected from each ward by the qualified voters thereof, and two councilmen shall be elected at large by the qualified voters of the city, at the first municipal election after the adoption of the optional form of government provided in sections 78.700 to 78.720. The term of councilmen shall be three years; provided, that of the first council elected after the adoption of sections 78.700 to 78.720, the councilmen representing wards two and four shall serve terms of one year; the councilmen representing wards one and three shall

serve terms of two years; and the councilman representing ward five, along with the two councilmen elected at large, shall serve terms of three years. In any special election held to replace a councilman elected by the voters of a particular ward, only the voters of that ward shall be eligible to vote.

2. Four members of the council shall constitute a quorum to do business, and no action of the council shall be valid unless at least four shall vote in favor of such action.

(L. 1985 H.B. 244 §§ 4, 5 subdiv. (4))

**Other applicable procedures for optional plan--councilmen, nomination and election--eligible voters--statement of candidacy, contents --ballot form.**

78.720. Except as otherwise provided in sections 78.700 to 78.720, the provisions of sections 78.430 to 78.640 shall apply to the adoption, implementation, or abandonment of the optional city manager form of government, provided that:

(1) Only the qualified voters of each ward shall be eligible to vote to nominate the candidates for councilmen of their respective wards, or to elect a ward councilman; and

(2) Statements of candidacy shall indicate whether the candidate is running at large or as a ward councilman. Candidates seeking to become a ward councilman shall also specify the ward and state under oath that they are a qualified voter of such ward; and

(3) Separate ballots shall be provided in all elections held pursuant to the adoption of the optional city manager form of government for the offices of councilmen at large and ward councilman, designated as follows: "FOR COUNCILMEN AT LARGE" or "FOR ..... WARD COUNCILMAN".

(L. 1985 H.B. 244 § 5 subdivs. (1), (2), (3))

## **CURRENT MISSOURI STATUTES FOR CITY ADMINISTRATOR FORM OF GOVERNMENT**

### **City administrator, employment authorized.**

77.042. The governing body of any city of the third class, except those organized under the provisions of sections 78.430 to 78.640, RSMo, and any fourth class city may by ordinance provide for the employment by the governing body with the approval of the mayor of a city administrator who shall be the chief administrative assistant to the mayor and who shall have general superintending control of the administration and management of the government business, officers and employees of the city, subject to the direction and supervision of the mayor.

### **Qualifications, compensation of administrator.**

77.044. 1. The governing body shall provide, as minimum qualifications, that the city administrator be at least twenty-one years of age, and that he devote his full time to the performance of the duties of his office. The governing body may also require that the city administrator meet other personal qualifications.

2. The city administrator shall receive a salary as set by ordinance, and shall serve at the pleasure of the appointing authority.

(L. 1969 H.B. 284 § 2, A.L. 1987 S.B. 393)

### **Other officers, appointment, discharge, regulations concerning.**

77.046. Upon the adoption of a city administrator form of government, the governing body of the city may provide that all other officers and employees of the city, except elected officers, shall be appointed and discharged by the city administrator, but the governing body may make reasonable rules and regulations governing the same.

(L. 1969 H.B. 284 § 3)

(1980) Statute with clause authorizing board of aldermen to make rules and regulations governing city administrator's power to appoint and discharge employees strongly suggests that legislature contemplated variations in extent of dismissal power delegated to city administrator. State ex rel. Gorris v. Mussman (A.), 612 S.W.2d 357.

(1980) City ordinance appearing to give administrator power to remove employees only for cause did not affect delegation of power by board of aldermen to remove employees "at will". State ex rel. Gorris v. Mussman (A.), 612 S.W.2d 357.

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**Other powers of mayor and council retained.**

77.048. Except as provided in sections 77.042 to 77.048, the mayor and city council of any third class city and the mayor and board of aldermen of any fourth class city which adopts the city administrator form of government shall retain all the powers given to it by the laws applying to the city before the city administrator form of government was adopted, and all laws governing the city under its prior form of government and not inconsistent with the provisions of sections 77.042 to 77.048 shall apply to and govern the city after it adopts this form of government. All bylaws, ordinances, and resolutions lawfully passed and in force at the time the city administrator form of government is adopted shall remain in force until repealed or altered by the council or board of aldermen.

(L. 1969 H.B. 284 § 4)