

CHAPTER 40-10 CITY MANAGER PLAN

40-10-01. Petition for city manager - Contents - Notice of election - Election.

Twenty-five percent or more of the qualified electors of a city, as shown by the number of votes cast for the executive officer of the city at the preceding city election, may petition for the city manager plan of government. Within thirty days after such petition is filed with the city auditor, the governing body of the city shall provide for the submission of such proposal to the qualified electors of the city at an election to be held within ninety days after such filing. The city auditor shall give thirty days' notice of the date of the election and of the purposes thereof. The notice of election shall state briefly the powers of the city manager if the plan should be adopted. The election shall be held, the votes canvassed, and the results declared in the same manner as in the case of city elections.

40-10-02. Vote required to adopt plan - Effective date. If a majority of the votes cast on the question at the election favors the adoption of the city manager plan, the governing body shall declare the plan adopted and shall fix the date when the plan becomes effective. The date must be after the first regular meeting of the governing body in the month of July following the election.

40-10-03. City manager - How selected - Qualifications - Compensation - Term.

The city manager shall be the chief administrative officer of the city and shall be chosen by the governing body solely on the basis of the person's qualifications. The choice shall not be limited to the inhabitants of the city or state and a majority vote of the members of the governing body shall be necessary to make the choice. The city manager shall receive a compensation of not less than one thousand dollars a year and shall be chosen for an indefinite term.

40-10-04. Removal of city manager - Summary proceedings - Charges brought - Suspension - Absence or disability of city manager. The city manager may be removed from office summarily by the governing body at any time within six months after appointment. After that period, the city manager may be removed only pursuant to written charges made and filed with the city auditor by the executive officer or by some member of the governing body. Upon the filing of the charges, if the city manager desires a hearing thereon, the city manager shall file a written demand for such hearing within three days after the notice of the filing of such charges has been served upon the city manager. In the absence of such demand, the city manager shall be deemed to have waived a hearing, but shall not be removed finally until a hearing is had or waived. Pending such hearing or the waiver thereof, the city manager may be suspended by the governing body. During the absence or disability of the city manager, the governing body shall designate some properly qualified person to perform the duties of the city manager's office. The decision of the governing body on the selection or removal of a city manager or of a person to perform the duties of such office shall be final.

40-10-05. Powers of governing body. The governing body shall have in addition to other powers granted by law the following powers:

1. It may inquire into the conduct of any office, department, or agency of the city.
2. It may by ordinance establish, change, and abolish offices, departments, and agencies, other than those required by law, and may add to or take away from the duties of the various offices, departments, and agencies.

40-10-06. Duties of city manager. The city manager shall:

1. Be responsible to the governing body of the municipality for the proper administration of all of the affairs of the city.

2. Prepare and submit to the governing body an annual preliminary budget as provided for under chapter 40-40, and shall be responsible for the administration of the final budget, subject to the control of the governing body as to changes in the same.
3. Be responsible for law enforcement.
4. Appoint and remove, subject to civil service regulations if in effect, all heads of administrative departments and employees of the city. However, the city manager shall neither appoint nor remove the head of any department without first consulting with the governing body.
5. Keep the governing body advised of the financial condition of the city and make such recommendations as may seem desirable.
6. Be responsible for the purchase of all supplies, materials, and equipment for the operations of the city. Provided, that for any purchase the cost of which exceeds one thousand dollars, the governing body shall establish the procedure for purchasing the same.

40-10-07. Conflict of powers and duties of city manager and other officers - Who to govern. If the powers granted to a city manager by this chapter shall conflict with or shall be opposed to the powers or duties imposed upon or granted by law to the executive officer or governing body, the powers or duties imposed or granted by law to the executive officer or the governing body shall be deemed to be suspended for and during the period in which the city manager plan is in force in the city and during the employment of a city manager thereunder.

40-10-08. Election to determine question of retention of city manager plan - Procedure thereafter. At any time after the city manager plan has been in force in any city for a period of five years or more, the governing body of the city may submit at any regular election the question of whether or not such plan shall be retained. If a petition signed by forty percent or more of the qualified electors of the city, as shown by the votes cast for the executive officer at the preceding city election, requesting the submission of such question is filed with the city auditor, the governing body shall submit such proposal to the qualified electors of the city at an election to be held within ninety days after the filing of such petition. The signatures to such petition need not be appended to a single paper, but each single paper so used shall clearly state the purpose of the petition at the top of the paper, and each signature shall have been placed thereon not more than ninety days prior to the date on which the petition is filed in the office of the city auditor. Upon each paper one of the qualified electors signing such petition shall, under oath before an officer competent to administer oaths, swear that that person witnessed the signing of each signature appearing on such paper and that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the name of the street and the number of the house in which each petitioner resides, the length of the petitioner's residence in the state of North Dakota and in the city, and the date on which the petitioner signed the petition. Any petitioner shall be permitted to withdraw the petitioner's name from a petition at any time prior to action by the governing body calling the election as provided herein. Such question shall not be submitted more than once in every five years. If a majority of the votes cast on the question at the election shall be against retaining the city manager plan, the city shall revert to the plan in force previous to the adoption of the city manager plan, and the provisions of this chapter shall not be applicable to such city except after another compliance with its terms. The governing body shall fix the date, not less than three months nor more than six months after an election at which the majority vote on the question is against the retention of the city manager plan, when such plan shall cease to be operative in the municipality.