

## Chapter 8 City Administrative Staff

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This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

## **Chapter 8**

# **City Administrative Staff**

*Learn about the duties of various city officials, the requirements for qualifying for office, and the problem of incompatible offices.*

### **RELEVANT LINKS:**

A.G. Op. 624-a-3 (Nov. 2, 1998). [Muehring v. Sch. Dist. No. 31](#), 224 Minn. 432, 28 N.W.2d 655 (1947). *Jewell Belting Co. v. Village of Bertha*, 91 Minn. 9, 97 N.W. 424 (1903). *Minneapolis Gas-Light Co. v. City of Minneapolis*, 36 Minn. 159, 30 N.W. 450 (1886).

## **I. Appointed officials and employees**

Statutory city councils have complete freedom to create whatever positions they find necessary in addition to those required by statute. They may assign duties to these officials and employees if such actions promote the public welfare and are consistent with state law. This may also be true in a home rule charter city, depending on its charter provisions.

Absent specific statutory or charter authority, a city council may not delegate legislative or quasi-judicial power. In addition, a council may not delegate any administrative power of a discretionary nature unless authorized to do so by state law or city charter. Councils may delegate merely ministerial functions.

Non-elective officers and employees in cities fall into two groups: contractors and full- or part-time employees. The city often retains or contracts with independent contractors, such as an attorney, auditor, architect, and others. Their compensation is frequently on a retainer, a contract, or some other fee basis. The city also hires full-time and part-time employees to whom the city pays either a salary or a wage. Some cities employ these individuals based on a merit system or under a civil-service system.

### **A. Statutory appointive offices**

Minnesota statutes require that cities fill several positions. These include the following:

- Clerk
- Treasurer
- Manager (Plan B cities only)
- Emergency-management positions
- Data-practices-compliance positions
- Assessor

## RELEVANT LINKS:

Minn. Stat. § 412.581.  
Minn. Stat. § 412.591.  
Handbook, *The Statutory City*, for information on different plans of city government.

Minn. Stat. § 412.681.

Minn. Stat. § 412.02, subds. 1, 3.

Handbook, *Elected Officials and Council Structure and Role*.

Minn. Stat. § 412.02, subd. 1.  
A.G. Op. 471-M (May 26, 1960).

Minn. Stat. § 412.02, subds. 1, 2a.  
Minn. Stat. § 351.02.

Minn. Const. art. VII, § 6.  
Handbook, *Elected Officials and Council Structure and Role*.

Minn. Stat. § 351.02.  
Handbook, *Elected Officials and Council Structure and Role*.

## 1. Clerk and treasurer in general

Plan A cities must appoint a clerk and a treasurer. State law also authorizes these offices to be combined by local ordinance.

In Plan B cities, there must be a clerk, a treasurer, and other offices as the council may create by ordinance. The council may combine the duties of any offices, except the manager may not perform the treasurer's duties.

In Standard Plan cities, the clerk and treasurer (or the combined clerk-treasurer positions) are elected positions. Although the duties are similar to Plan A city clerks and treasurers, Standard Plan cities should also see the discussion in Chapter 6 regarding elected officials for further information.

## 2. Clerk

The clerk is a central figure in any city government and has a wide variety of duties and responsibilities. Not only does the clerk execute many of the city's governmental functions, the clerk also usually supervises the daily administration of city business.

### a. Elected clerk

In Standard Plan cities, the clerk is an elected position and a voting member of the city council. Elected city clerks generally exist only in Standard Plan cities; however, charter cities may have an elected clerk if their charter so provides.

The term of office for an elected clerk is four years. When a vacancy occurs in the elected clerk's office, it is filled in the same manner as any other council vacancy.

Because the office is elected, the clerk must be a resident of the city to qualify for office. This requirement also holds true for persons appointed to this office to fill a vacancy.

Since the clerk is an elected official, the council generally may not remove the clerk from office. An elected city clerk may only be removed under limited circumstances, such as the commission of a crime that would result in the officer losing qualifications for office, malfeasance in office, or termination of residency. Voters, however, may always choose to elect a new clerk when the current term expires.

Standard Plan councils seeking to remove their city clerk from office should consult with their city attorney before beginning this procedure.

## RELEVANT LINKS:

[Minn. Stat. § 412.591.](#)

[Minn. Stat. § 412.581.](#)  
[HR Reference Manual,](#)  
[Chapter 3.](#)

[LMC information memo,](#)  
[Veterans Preference in](#)  
[Discipline, Discharge or Job](#)  
[Elimination.](#)

[Minn. Stat. § 412.681.](#)

[Minn. Stat. § 415.16.](#)  
[HR Reference Manual,](#)  
[Chapter 2.](#)

[Minn. Stat. § 412.651, subd.](#)  
[3.](#)

[Handbook, \*Election\*](#)  
[Procedures.](#)

[Minn. Stat. § 412.151, subd.](#)  
[1.](#)

### **b. Appointed clerk**

Clerks in Plan A and Plan B cities are appointed to their positions.

Plan A cities are required to appoint a city clerk, but may, by ordinance, combine the offices of clerk and treasurer into a single clerk-treasurer position. In Plan A cities, the clerk works under the direction of the city council. Since the position is not elected, the clerk's term is indefinite. As such, the council may retain a clerk for many years.

The council appoints the clerk in a Plan A city. Similarly, the council also has power to remove the clerk. The council, however, should be aware of possible procedural requirements for termination. For example, if civil service rules are in place or if the employee is a veteran, certain procedures must be followed. City councils that are considering removing their city clerk should contact their city attorney for guidance.

In Plan B cities, a clerk is also required. The clerk works under the direction of the city manager. As in Plan A cities, the council in Plan B cities may, by ordinance, combine duties of various officers, such as clerk and treasurer. The manager, however, may not perform the treasurer's duties.

Unlike an elected clerk, an appointed city clerk does not have to be a resident of the city. In fact, state law prohibits a city from requiring that the clerk live within city limits as a condition of employment.

The city clerk in a Plan B statutory city is also an appointed office. The city manager, not the council, appoints the clerk. Similarly, the city manager has the power to remove the city clerk. The city attorney should always be consulted before removing a city officer.

### **c. Duties of the clerk**

The city clerk has numerous responsibilities. Some duties are found in general areas of law, such as state election laws. Others are scattered throughout the statutes, setting forth a specific process or procedure the clerk must follow.

Statutory city clerks have both duties specific to their type of city as well as general duties that apply regardless of city type. Further, the council may develop other ministerial duties specific to the city's needs.

Standard Plan and Plan A city clerks have several specific duties. By statute, the clerk in a statutory city is required to:

## RELEVANT LINKS:

[Minn. Stat. § 412.201.](#)

- **Minutes.** Keep a minute book containing all of the city council proceedings.
- **Ordinances.** Keep an ordinance book recording all of the ordinances passed by the council.
- **Bookkeeping.** Act as the bookkeeper of the city and keep an account book to enter all money transactions of the city, including the dates and amounts of all receipts, and the person from whom the money was received, as well as all orders drawn upon the treasurer with their payee and object.
- **Elections.** Give the required notice of each regular and special election, record the proceedings thereof, notify officials of their election appointments to office, and certify to the county auditor all appointments and the results of all city elections.
- **Custodian.** Serve as the custodian of the city's seal and records.
- **Signatory.** Sign all official papers.
- **Notice.** Post and publish notices, ordinances, and resolutions as required.
- **Other Duties.** Perform other appropriate duties as imposed by the city council.

In addition to these duties, Standard Plan city clerks also serve as members of the council.

[Minn. Stat. § 412.681.](#)

Plan B city clerks are subject to the direction of the city manager and have the following statutory duties:

- **Recordkeeping:** Keep public records.
- **Finance.** Maintain custody of and disburse public funds.
- **Administration.** Administer city affairs as ordained by the council.

[Minn. Stat. § 412.681.](#)

The clerk in a Plan B city may also be designated secretary to the council.

In addition to the above duties, the clerk will also typically do the following:

- **Notice.** Provide notice of regular and special meetings.
- **Correspondence.** Handle all correspondence on behalf of the council.
- **Meeting preparation.** Draw up agendas and prepare or supervise the preparation of other working papers the council uses at meetings.
- **Other Duties.** Execute any duties the council assigns to the clerk. In many cities, the clerk also does this for administrative boards, such as the utilities commission.

## RELEVANT LINKS:

Handbook, *Financial Reports Accounting and Auditing*.

LMC information memo, *Budget Guide for Cities*.

HR Reference Manual, Chapter 4.

Minn. Stat. § 412.151, subd. 2.

Minn. Stat. § 412.591, subd. 2.  
Minn. Stat. § 412.02, subd. 3.

Minn. Stat. § 412.02, subd. 3.  
Minn. Stat. § 412.591, subd. 3.  
Current Audit Revenue Thresholds, Office of the State Auditor.  
U.S. Department of Commerce – Bureau of Economic Analysis, 4600 Silver Hill Rd. Washington, DC 20233; (301) 278-9004.

### d. Financial responsibilities

Except for those records the treasurer must keep, the clerk maintains all financial records. Where the city has combined the office of clerk and treasurer, the clerk generally performs all financial duties. In addition, the clerk is responsible for preparing financial reports.

If the council makes appropriations or allotments under a budget, the clerk usually has the duty of administering the budget.

As the general city administrative officer in charge of payroll, the clerk must withhold state and federal income taxes from the paychecks of all employees. In cities without a finance officer or department, the city clerk may also be responsible for monthly payroll deductions and reports for the Public Employees' Retirement Association (PERA), Social Security and Medicare contributions from each employee.

By ordinance, the council may delegate all or part of the clerk's bookkeeping duties to another officer or employee. A copy of the ordinance must be sent to the state auditor. The officer or employee to whom the responsibilities are assigned must furnish a fidelity bond. If the bookkeeping duties are delegated to the treasurer, the city must have an annual audit.

The council can, by ordinance, combine the offices of clerk and treasurer into a clerk-treasurer position. In a Standard Plan city (where both the clerk and the treasurer are elected), the ordinance must be adopted at least 60 days before the city's next general election. The ordinance cannot take effect until after the expiration of the treasurer's term or when an earlier vacancy occurs. Separate offices of clerk and treasurer may be re-established by ordinance.

There are special audit requirements for cities that have combined clerk-treasurer positions. Standard Plan and Plan A statutory cities that have a combined clerk-treasurer position must have an annual audit if city revenues exceed \$150,000 adjusted for inflation using the annual price deflator as published by the U.S. Department of Commerce. If the city revenues are less than the threshold, the audit is required once every five years, with the person performing the audit selecting the year to be audited.

### e. Filing official documents

It is the duty of the clerk to accept and keep on file the following official documents:

## RELEVANT LINKS:

[Minn. Stat. § 358.11.](#)  
[Minn. Stat. § 574.21.](#)

[Minn. Stat. § 412.141.](#)  
[Minn. Stat. § 6.51.](#)

[Minn. Stat. § 35.68.](#)

[Minn. Stat. § 276.11, subd. 1.](#)

[Minn. Stat. § 412.871.](#)

[Minn. Stat. § 645.021, subd. 3.](#)  
[Minn. Stat. § 429.061, subd. 3.](#)  
[Minn. Stat. § 505.176.](#)  
[Minn. Stat. § 275.07, subd. 1.](#)

[Minn. Stat. § 205.07, subd. 1.](#)

[Minn. Stat. § 206.58, subd. 4.](#)

[Minn. Stat. § 204B.14, subds. 4, 5.](#)

[Minn. Stat. § 477B.02, subd. 9.](#)

[Minn. Stat. § 477C.02, subd. 1\(b\).](#)  
[Minn. Stat. § 340A.403.](#)

- The oath and bond of each city official.
- Claims against the city.
- The treasurer's year-end statement.
- Any state auditor's reports on city affairs the clerk may receive.
- Proclamations stating that rabies exist in the city, and seeing that such a proclamation is published in a legal newspaper, or, if there is no legal newspaper in the city, posting a copy in three public places.
- Tax-settlement receipts from the county treasurer.
- Receipts from fines, forfeitures, and penalties paid into the city treasury.

The clerk, even though no longer the local registrar of vital statistics, like birth and death records, should keep records the city accumulated during the years when the clerk performed this duty. The clerk should answer inquiries concerning these records.

### f. Certification

The clerk should certify the following information and attest to its validity:

- Local approval of special laws pertaining to the city.
- Special assessments to the county auditor.
- Plats of land within the city to the county recorder.
- Tax levies to the county auditor.
- Immediate written notification of a change of regular city election date to the secretary of state and the county auditor.
- Use of an electronic-voting system, within 30 days of adoption of such a system to the secretary of state.
- Immediate notification of precinct boundary changes to the county auditor and the secretary of state. The clerk must file a map showing the new boundaries and provide a corrected precinct map to the county auditor and the secretary of state. In addition, notice of the change must be posted in the clerk's office at least 56 days before the change becomes effective.
- Existence of a municipal fire department or of an independent nonprofit firefighting corporation, and the fire personnel and equipment to qualify for fire state aid.
- Number of police officers in the city to the commissioner of revenue to qualify for police state aid.
- Issuance of a 3.2 percent malt liquor license to the commissioner of the Minnesota Department of Public Safety.

### g. Other duties

In addition to the above duties, the clerk must:

## RELEVANT LINKS:

[Minn. Stat. §§ 358.09-.10.](#)

[Minn. Stat. § 347.09.](#)

[Minn. Stat. § 340A.905.](#)

[Minn. Stat. § 412.851.](#)

[Minn. Stat. § 412.151, subd. 1.](#) A.G. Op. 470-c (Feb. 18, 1959).

[Minn. Stat. § 412.151, subd. 1.](#)

[Minn. Stat. § 412.151.](#)

[Minn. Stat. § 412.141.](#)

[Minn. Stat. § 412.141.](#)

- Take and certify acknowledgments and administer oaths.
- Issue dog and kennel licenses and enforce county-licensing regulations if applicable.
- Receive notice and inform the council of convictions for liquor law violations involving people holding liquor licenses in the city.
- After the adoption of a resolution vacating a street, alley, public ground, or public way, the clerk must prepare a notice of completion of the proceedings that must be presented to the county auditor.

## h. Deputy clerk

State law allows the position of deputy clerk in any statutory city. With the consent of the council, the clerk may appoint and remove the deputy clerk. The attorney general has interpreted the statutory language “with the consent of the council” to mean the council has power to approve the clerk’s appointee for the position but does not choose the appointee. Besides approving the appointment, the council should provide for payment of the deputy’s salary from city funds.

If the city does not have a deputy clerk and the regular clerk is absent from the city or is disabled, the council may, on its own authority, appoint a deputy clerk to serve during the absence or disability of the regular clerk.

A deputy may perform all duties of the clerk, except for those duties of a Standard Plan clerk serving as a councilmember. The clerk is responsible for all official actions of the deputy. While state law does not require the deputy position to be bonded, it is advisable to do so when the position requires handling money.

## 3. Treasurer

The treasurer must receive and safely keep all city money. This means prompt entry of all receipts in an account book, showing the date, source, kind, and amount of each payment, and the immediate deposit of all money in the city’s official depository. To pay out city funds, the treasurer must draw up an order in writing, the council must audit and allow it, and the mayor and clerk must sign it.

The treasurer must have the books and records available for inspection at any time. After the close of each calendar year, the treasurer must prepare and file a detailed account of that year’s receipts and disbursements with the clerk.



## RELEVANT LINKS:

[Minn. Stat. § 412.141.](#)

[Minn. Stat. § 427.09.](#)

[Minn. Stat. § 484.90.](#)  
[Minn. Stat. § 412.871.](#)

[Minn. Stat. § 412.141.](#)

[Minn. Stat. § 412.611.](#)

[Minn. Stat. § 412.541, subd. 2.](#)

[Minn. Stat. § 412.651, subd. 2.](#)

When leaving office, the treasurer must deliver all city papers, books, and money to the new treasurer as soon as they qualify for office and begins the term. An outgoing treasurer should close the books completely before passing them on.

### **a. Duties of treasurer**

In addition to these general duties, the treasurer must also:

- Select one or more official depositories for the safekeeping of city funds, if the council fails or refuses to select a depository within 30 days after the beginning of the fiscal year.
- Receive fees, fines, and other payments due to the city, and give out receipts for them.

### **b. Deputy treasurer**

The treasurer may, with the consent of the council, appoint a deputy treasurer who is supervised by the treasurer and who may be removed by the treasurer. In case of the treasurer's absence from the city or disability, the council may appoint a deputy treasurer to serve during the regular treasurer's absence. The deputy treasurer may perform any of the duties of the treasurer. Since the deputy may handle money, the council should require a deputy treasurer to file an official bond.

## **4. Managers (Plan B cities)**

Plan B cities and some home rule charter cities have a city manager. The council exercises the legislative power of the city and determines all matters of policy. The city manager exercises the administrative power of the city and is responsible to the council for the proper administration of all city affairs.

Only statutory cities with a population over 1,000 are eligible to operate under the Optional Plan B council-manager form of government. This does not apply to home rule charter cities.

The Plan B city manager has several duties and responsibilities set forth by statute.

### **a. Enforcement of statutes, ordinances, and resolutions**

The city manager in a Plan B city must ensure the statutes relating to the city and the laws, ordinances, and resolutions of the city are enforced.

## RELEVANT LINKS:

[Minn. Stat. § 412.651, subd. 3.](#)

[Minn. Stat. § 412.661.](#)

[Nelson v. City of Eden Prairie](#), No. A11-350 (Minn. Ct. App. Dec. 27, 2011) (unpublished decision).

[Minn. Stat. § 412.651, subd. 4.](#)

[Minn. Stat. § 412.651, subd. 5.](#)

[Minn. Stat. § 412.651, subd. 6.](#)

[Minn. Stat. § 412.651, subd. 7.](#)

### **b. City staff**

The city manager has the power to appoint and remove city staff. This includes the city clerk, all department heads, and subordinate officers and employees. If civil service rules or a labor agreement are in place, applicable provisions must be followed. The appointment and removal of the city attorney, however, is subject to the approval of the city council.

The city manager has complete discretion to appoint or remove staff members within the limits of other applicable laws, such as the Veterans Preference Act, among others. Neither the council nor any individual councilmember may dictate the appointment of any person to office or employment by the manager.

Councilmembers may not interfere with the manager's judgment in appointing personnel. Likewise, the council may not give orders to any subordinate of the manager. Instead, the council's control is indirect, through its selection and appointment of the manager. It is common practice, however, for councils to have some interaction with city staff.

### **c. City departments**

The city manager has control over all departments of the administration. This includes both departments that are created under the Plan B form and by the city council.

### **d. Council meetings**

The city manager must attend all meetings of the city council. The manager has the right to take part in the council discussions but cannot vote. The city council may exclude the city manager from any meetings at which the manager's removal is considered.

### **e. Recommend ordinances and resolutions**

The city manager must recommend ordinances, resolutions, and policies to the council for adoption the city manager deems necessary for the welfare of the people and the efficient administration of city affairs.

### **f. City finances and budget**

The city manager must keep the council fully advised as to the city's financial condition and needs. The manager must also prepare and submit the annual budget to the council.

## RELEVANT LINKS:

[Minn. Stat. § 412.701.](#)

LMC information memo,  
*Budget Guide for Cities.*

[Minn. Stat. § 412.721.](#)

[Minn. Stat. § 412.741.](#)

[Minn. Stat. § 412.691.](#)

LMC information memo,  
*Procedures for Paying City  
Claims.*

[Minn. Stat. § 412.691.](#)

[Minn. Stat. § 412.651, subd.  
8.](#)

[Minn. Stat. § 412.651, subd.  
9.](#)

Plan B city managers must prepare the estimates for the annual city budget. The budget must be organized by funds and include all the funds of the city, except funds made up of proceeds of bond issues, utility funds, and special assessment funds, and may include other funds at the discretion of the council.

It is the city manager's duty to enforce the provisions of the budget. The manager must not approve any order for any expenditure unless an appropriation has been made in the budget resolution. Likewise, the manager must not approve any expenditure covered by budget resolution unless there is a sufficient unexpended balance left after deducting the total past expenditures and the sum of all outstanding orders and encumbrances.

The procedure for disbursement of funds is similar to that in a Standard Plan or Plan A city except that the mayor and manager sign the orders instead of the mayor and clerk. The manager must specify the fund from which payment will be made on each contract. The council may, by ordinance, establish additional mechanisms for the safekeeping and disbursement of city funds.

### **g. Chief purchasing agent**

The city manager is the chief purchasing agent for the city. All purchases and contracts that do not exceed \$20,000 are made or let by the manager unless the council has set a lower limit. All claims resulting from these purchases and contracts must still be audited and approved by the council in the same manner as in other statutory cities.

All other purchases and contracts are made by the council after obtaining the recommendation of the manager. Both the mayor and the manager must sign all contracts, bonds, and other instruments to which the city is a party.

### **h. Administrative code**

At the council's request, the city manager must prepare an administrative code for the council to consider for adoption. The code must incorporate the details of administrative procedure, and the manager must suggest amendments to the code from time to time.

### **i. Additional duties**

The city manager must perform any other duties that are required by statute for Plan B cities. Additionally, the manager must meet any other responsibilities set forth in city ordinances or resolutions.

Home rule charter cities with managers should consult their charters for duties.

## RELEVANT LINKS:

[Minn. Stat. § 412.641.](#)

[Minn. Stat. § 412.641.](#)

[Minn. Stat. § 412.641.](#)

[Minn. Stat. § 412.641.](#)

[Minn. Stat. § 412.641.](#)

[Minn. Stat. § 412.641.](#)

[Minn. Stat. § 12.25, subd. 1.](#)  
[Minnesota Basic Code](#) has a  
Model Emergency  
Management ordinance.

[Minn. R. 1205.1000.](#)

[Minn. Stat. § 13.02, subd. 16.](#)  
[Minn. R. 1205.2000, subp. 2.](#)  
LMC information memo  
*Data Practices: Analyze,*  
*Classify, Respond.*

## j. Appointment and removal

The city manager is appointed and removed by the city council.

The manager is chosen by the council based on training, experience, and administrative qualifications. The manager is appointed for an indefinite period and need not be a resident of the city.

The council may remove the city manager at any time. If the manager has served for one year or longer, however, the manager may demand written charges and a public hearing on the charges before the final removal takes effect.

The demand for written charges must be made within seven days of notification of the council's intent to remove.

The council must set a date and a reasonable time for a public hearing, but it must be held within 30 days of the manager's demand. The hearing may not be recessed or reconvened until a further date unless approved by the council.

Pending the hearing, the council may suspend the manager, with or without pay. The council may designate another qualified person to perform the duties of the manager during absence or disability.

The council must notify the city manager within five days of the hearing of its decision to retain or remove the manager.

City councils that are considering removal of their manager should consult with their city attorney before beginning the removal process. The council should also consider any relevant employment contract language, personnel policies, and ordinance or charter provisions.

## 5. Emergency management

Every statutory and charter city must establish a local organization for emergency management. Each local organization must have a director, who is appointed by the mayor. Many smaller cities have designated their fire chief as the director of emergency management.

## 6. Data-practices positions

A state rule requires the council to appoint a responsible authority. A "responsible authority" is the individual designated by the council to be responsible for the collection, use, and dissemination of the city's data. This individual is generally responsible for the receipt and handling of data requests. A sample resolution to appoint a responsible authority is found in the state rules.

## RELEVANT LINKS:

[Responsible Authority](#),  
Minnesota Data Practices  
Office.

[Minn. Stat. § 13.05, subd. 13.](#)

[Minn. Stat. § 13.05, subd. 13.](#)

[Minn. Stat. § 273.063.](#)  
[Minn. Stat. § 270.50.](#)

[Minn. Stat. § 273.063.](#)  
[Minnesota State Board of  
Assessors](#), Mail Station 3340,  
600 N. Robert St.  
St. Paul MN 55146; (651)  
556-6086.

[Minn. Stat. § 412.131.](#)

[Minn. Stat. § 273.05, subd. 1.](#)

[Minn. Stat. § 273.05, subd. 2.](#)  
[Minnesota State Board of  
Assessors](#), Mail Station 3340,  
St. Paul, MN 55146; (651)  
556-6086.

Until the city designates an individual as the responsible authority, the responsible authority is the elected or appointed city clerk for statutory and home rule charter cities. If the home rule charter does not provide for an office of city clerk, the responsible authority is the chief clerical officer for filing and record keeping purposes.

In addition to appointing a responsible authority, all cities must appoint or designate a data practices compliance official. This is the person to whom people may direct questions or concerns regarding problems in obtaining access to data or other data practices problems.

The data practices compliance official must be a city employee and may be the same person as the responsible authority. A sample resolution to appoint a data practices compliance official is available from the League.

## 7. Assessor

In counties having a city of the first class (except Ramsey County), the powers and duties of the county assessor within such city shall be performed by the city assessor.

In all other cities having a population of 30,000 people or more (except in counties having a county assessor on January 1, 1967), the powers and duties of the county assessor within such cities shall be performed by the city assessor. The city assessor performs both the duties of a local assessor and county assessor, except the county assessor retains supervisory duties. Assessors must be licensed by the State Board of Assessors.

In many Minnesota cities, the county assessor assesses property for tax purposes. But Minnesota state law authorizes all statutory cities to appoint city assessors. The assessor is appointed by the city council or as provided for by charter. The city assessor is appointed for an indefinite term and may be removed by the council for cause or on charges by the commissioner of revenue for inefficiency or neglect of duty. Vacancies must be filled within 90 days, or the office is terminated and the county auditor may appoint a new assessor. But the city assessor office may be reinstated by hiring a certified or accredited assessor.

All assessors must take an oath of office before they begin. Failure to take the oath means a refusal to serve. The State Board of Assessors is the source of information on the state-certification program.

## B. Non-statutory offices

Although the law does not require it, most cities appoint an attorney and a police chief.

## RELEVANT LINKS:

[Minn. Stat. § 471.59.](#)

Other positions that many cities have are administrator, librarian, liquor-store manager, recreation director, street superintendent, engineer, and utilities superintendent. Small cities often hire several part-time employees, or one or two full-time employees to perform many duties. Sometimes, small cities share the services of an employee with other small cities under the Joint Powers Act.

While certain positions are common to large and small cities alike, the actual duties of these employees often depend on the size of a city and the complexity of its organizational structure. A supervisory administrative official may or may not devote some time to direct participation in the functional activities of the department. For example, police chiefs in smaller cities may spend a major portion of their time working in patrol cars, while devoting only a few hours per week to supervisory activities.

### 1. City administrator

[Minn. Stat. § 412.111.](#)

The city council may appoint employees for the city as deemed necessary for its proper management and operation. Standard Plan and Plan A city councils may establish, by ordinance or resolution, a chief administrative officer, often called the city administrator position. The city may assign coordinating duties of the city administrator to the city clerk, deputy clerk or special administrative officer.

The history of the city administrator position is less defined than the clerk and manager positions. In Minnesota, the city administrator position has typically grown out of the city clerk position. As a city's operations grow more complex, it becomes unrealistic for the elected body to personally oversee all day-to-day operations. In a move toward delegating some of these day-to-day functions, many city councils have chosen to create the position of city administrator.

A key issue in the creation of the city administrator position is the level of authority, particularly supervisory authority over other city staff that will be vested in the position. In some cities, the responsibilities may be essentially an expansion of the city clerk's duties. Other cities may give the administrator broader powers.

[Minn. Stat. § 412.111.](#)

Since state statutes do not specifically provide for a city administrator, or define the powers of the position, duties can vary greatly from city to city. Generally, the council delegates day-to-day responsibilities of city administration. But when the position is combined with that of the city clerk, the position will include all the duties of the city clerk as well.

## RELEVANT LINKS:

A.G. Op. 471-F (Oct. 24, 1961). *Jewell Belting Co. v. Village of Bertha*, 91 Minn. 9, 97 N.W. 424 (1903).

Delegated duties must be ministerial. The courts will not permit the delegation of legislative discretion. The duties the council may delegate include the supervision of workers, accounting, preparation of reports, factual determinations, and execution of council policies. The administrator may not hire and fire employees or make purchases and allow contracts unless the council sets specific standards governing these actions.

The following responsibilities are among those often assigned to city administrators:

- **Administration direction.** Direct the administration of the city as provided by council action, and state and federal statutes.
- **City affairs.** Coordinate with the city council in administering city affairs.
- **Policy recommendations.** Recommend adoption of policies that will further goals of the city council and generally improve the quality of city administration.
- **Local improvements and city projects.** Prepare reports and summaries relating to proposed municipal projects/improvements and submit them with recommendations as may be required to the council for study and subsequent action.
- **Budgets.** Prepare a recommended budget for consideration by the city council.
- **Financial statements.** Prepare the annual financial statement and perform other duties as required by statute.
- **Meetings.** Attend and participate in all council meetings. Attend (at administrator's discretion or by invitation) other committee and commission meetings.
- **City programs.** Coordinate city programs and activities as authorized by the council.
- **Financial reports.** Submit quarterly reports to the council on the financial condition of the city's accounts.
- **Elections.** Supervise the administration of local elections in accordance with prescribed laws and regulations.
- **Supervision.** Supervise and have day-to-day oversight over the activities of all city department heads and administrative staff.
- **Employment.** Provide recommendations to the council regarding employment and removal of city staff.
- **Cooperate with professional staff.** Work in cooperation with the city attorney and city engineer.
- **Public relations.** Prepare news releases and develop and discuss public relations materials. Maintain effective public relations with the local media and general public.



## RELEVANT LINKS:

Handbook, *Elected Officials and Council Structure and Role.*

- **Consultation.** Consult with appointed officials and other public or private entities as may be required.
- **Other public programs.** Stay informed of all federal, state, and county programs that affect the city.
- **Labor negotiation.** Negotiate or delegate the negotiation of the terms and conditions of employee labor contracts.
- **Other duties.** Perform all other duties required of administrator by ordinances or resolutions adopted by the council.

Cities should consult their city ordinances for a list of the administrator's job duties. Home rule charter cities with administrators should consult their charters for similar information.

## 2. Other offices

There are several other types of offices that city councils create to serve the needs of the city. These offices will vary in their responsibilities from city to city.

## 3. Boards and commissions

Many cities have various boards and commissions that advise the council in particular areas. These boards and commissions are generally established by ordinances that specify the board's responsibilities and duties. Some boards and commissions may have specific powers given to them by state statute.

## 4. City attorney

Although not a required position, most cities hire an attorney who acts as the legal advisor to the city council. The need for cities to make contracts, write and pass ordinances, deal with employment issues and land-use matters, as well as the potential for litigation in a variety of different areas, makes a good working relationship with a city attorney very important.

Here are some basic guidelines to help cities work with their city attorneys:

- **Provide information.** Keep the city attorney informed about the matters the city may be dealing with. Give the attorney all the facts that surround a specific situation. If you leave something out, it may affect the conclusion reached by the attorney.
- **Include in meetings.** It's a good idea to have the city attorney attend all the city council meetings.



## RELEVANT LINKS:

[Minn. Stat. § 358.05.](#)  
Handbook, *Elected Officials*  
and *Council Structure and*  
*Role*.

[Minn. Stat. § 351.02\(6\).](#)

[Minn. Stat. § 412.111.](#)

- ***Give time to prepare.*** Give the city attorney advance notice of questions for which the council may want a legal opinion. This will allow the attorney to thoroughly research the question and provide a well-informed legal opinion. An immediate answer to questions with complex legal issues will not always be available.
- ***Ask questions.*** If you don't understand what the city attorney has said, ask for clarification. You can't follow advice that you don't understand. Ask the attorney why he or she has reached a particular conclusion if you don't understand the reasoning behind the opinion.

City councilmembers don't always agree with the advice they get from their city attorneys. While there is no obligation to follow the legal advice you receive, cities should exercise caution before disregarding it. If you disagree with the city attorney's opinion, the city should consider getting a second opinion from another attorney. Be sure to let your city attorney know you will be seeking an additional opinion on the matter. In some fields of law, such as employment and land use, an attorney who specializes in that particular field may be able to provide additional information that can assist the council in making a well-informed decision.

## II. Qualifying for office

Qualifying for office means an elected or appointed official takes the official oath and files a bond (if necessary) for the position. This is not the same as qualifications for office that refer to an individual's abilities and characteristics.

The act of qualifying for office should take place within the statutorily prescribed time limit. Failure to do so creates, upon declaration of the council, a vacancy in the office.

### A. Official bonds

State law requires the treasurer and clerk to furnish bonds to ensure the faithful exercise of their duties. In addition, state law authorizes the council to require a bond from any other officer or employee.

The city should always require a bond for employees that handle substantial amounts of money or property that is readily convertible into money. In some cases, the city may find it desirable to bond major administrative officers as well, even though they do not directly handle money. Many cities bond the city manager, finance director, deputy clerk, department heads, and other similar administrative officials.

## RELEVANT LINKS:

[Minn. Stat. § 412.151, subd. 2.](#)

[Minn. Stat. § 412.111.](#)  
[Minn. Stat. § 412.151, subd. 2.](#)

LMC information memo,  
[LMCIT Property, Bond, Crime and Petrofund Coverage Guide](#), Section VI-A, Bond coverage.

[Minn. Stat. § 412.111.](#)

[Minn. Stat. § 574.01.](#)  
[Minn. Stat. § 574.12.](#)

In addition, if the council designates all or part of the clerk's bookkeeping duties to another officer or employee, that officer or employee must furnish a fidelity bond.

### 1. Premium payments

State law allows the council to pay the premium on the bond from city funds, although the council could require officers or employees to obtain the bonds and pay their own premiums.

### 2. Amount of bond

The law does not set a schedule of bond coverage for any particular class of officials or employees. The amount of bond coverage is up to the city council. A city may set the amount of bond coverage in several different ways. One way is to set the bond at an amount approximately equal to the largest amount of money on hand at any one time.

The Minnesota Clerks & Finance Officers Association recommends using a formula to determine the officer's "exposure index." This formula takes 10 percent of the sum of the city's total annual revenue, adds it to the market value of negotiable securities under the official's control, and matches the resulting figure to a recommended bond amount.

Further information on this formula is available from the League of Minnesota Cities.

### 3. Kind of bond

The bonds that the clerk and treasurer furnish must be corporate surety bonds. Bonds of all other officers or employees may be either corporate surety or personal surety bonds. Corporate bonds, however, are becoming more common.

Corporate surety bonds have the backing of an insurance company licensed to write the bonds. Personal surety bonds have the backing of individuals signing as sureties. They agree to pay any amount up to the amount of the bond, if the city is entitled to that amount due to improper actions on the part of the bonded person. Corporate surety bonds provide better protection because of the resources of the insurance company and the more rigid supervision they usually require over the handling of funds.

If the officer uses a personal surety bond, one or more people or sureties must, together with the officer, sign and acknowledge the bond. Personal sureties must also certify, by an affidavit attached to the bond, that each is worth at least twice the sum of the bond, over and above their debts and liabilities and exclusive of their exempt property.

## RELEVANT LINKS:

[Minn. Stat. § 415.18, subd. 1a.](#)

[Minn. Stat. § 415.18, subd. 2.](#)

[Minn. Stat. §§ 574.20-.21.](#)

LMC information memo,  
[LMCIT Property, Bond,  
Crime and Petrofund  
Coverage Guide](#), Section VI-A,  
Bond coverage.

[Minn. Stat. § 574.23.](#)

### 4. Blanket bonds

Instead of individual bonds, the council may provide for blanket bonds furnished by a surety company to cover any officer or employee, including clerks and treasurers who must furnish a bond. The blanket bond must include all the obligations required by the law, charter, or ordinance. Councils may purchase blanket bonds regardless of contrary charter provisions.

### 5. Approval and filing

The bonds of all city officers and employees, except for a few exceptions, must be approved by the council and filed by the clerk. The council should endorse each bond. If the council decides that an official's bond is not sufficient, it may require a bond in a larger amount.

### 6. Form of surety bonds

The insurance company that writes the bond usually provides the forms for corporate surety bonds. The forms should comply with state requirements. Printed forms for personal surety bonds are available from legal stationers. The League can provide information on suggested forms.

### 7. Terms of bonds

Bonds may be for a specified period, such as for a year, or for an indefinite term, in which case they remain in effect as long as the person stays in office. The League recommends, however, that the council only accept bonds that are for a one-year period. Each bonded officer or employee would then furnish a new bond annually. This procedure protects the city against an accumulation of improper actions on the part of an individual.

### 8. LMCIT bond coverage

The League of Minnesota Cities Insurance Trust (LMCIT) offers public-employee bond coverage as part of its overall package of coverage for cities. LMCIT's bond program makes available all the fidelity and faithful-performance bond coverage and limits that is needed by cities and city officials and coordinates the bond coverage with a city's other coverage to avoid gaps, overlaps, and inconsistencies.

### B. Examination of accounts

The council must make, or arrange for another party to make, a thorough examination of an officer's financial accounts when:

## RELEVANT LINKS:

*State ex rel. Hilton v. Sword*,  
157 Minn. 263, 196 N.W. 467  
(1923). *Kenny v. Goergen*, 36  
Minn. 190, 31 N.W. 210  
(1886).  
[Minn. Stat. § 410.191.](#)  
[Minn. Stat. § 412.02, subd.  
1a.](#)

Handbook, [Elected Officials  
and Council Structure and  
Role](#).  
LMC information memo,  
[Official Conflict of Interest.](#)  
[“Compatibility of Offices,”](#)  
House Research Information  
Brief (July 2012).

[Minn. Stat. § 471.59.](#)  
Handbook,  
[Intergovernmental  
Cooperation.](#)

A.G. Op. 1007 (June 18,  
1973).

- The official files a new official bond or other security.
- The officer’s term expires.
- A vacancy results from the death, resignation, or removal of the official.

If there is any discrepancy in the accounts, the council must immediately notify the official and the official’s sureties of the irregularity. The statement must be in writing. The council should mail the statement to the officer and sureties at their residences, if known. Failure to make the examination or give such notice does not discharge the sureties.

Such an examination of accounts should occur at the end of an official’s term of office even if that official has been re-elected to serve another term.

### III. Incompatible offices

State laws generally do not prevent a person from holding two or more governmental positions. However, a state statute expressly prohibits the mayor and councilmembers in both statutory and home rule charter cities from being “employed” by their city. The term “employed” is defined as “full-time permanent employment as defined by the city’s employment policy.” Elected officials and some city employees cannot hold more than one position if one of the positions has responsibilities that are incompatible

with the other. A public official may also be prohibited from holding more than one position if the different jobs give rise to conflicts between personal interests and official duties. It is important to realize that incompatible offices may occur with either elected or appointed offices. Thus, both elected and appointed officers may need to consider the nature of their offices if they will be serving the public in more than one role.

### IV. Shared clerks or administrators

Sometimes two or more smaller cities will share an administrator or clerk. Sharing the position allows cities that themselves do not need a full-time position to combine and create one full-time position, and hopefully attract and retain a more qualified candidate than they might for a part-time position. Cities are authorized to enter a joint powers agreement for such services if the cities involved all have the same power to appoint such a position.

### V. Clerk or administrator?

Cities sometimes ask whether they should have a city clerk or an administrator. The answer to this question will depend upon many variables unique to each city.

## RELEVANT LINKS:

If the council spends a lot of time administering day-to-day activities, it may wish to delegate some responsibilities to city staff. Depending upon the number of responsibilities and the amount of time needed to adequately perform these duties, they can be assigned to an existing position, such as the city clerk, or to a new position, such as an administrator.

Generally, many small cities delegate responsibilities to the city clerk until it becomes obvious that an additional person is needed. At this point, many cities will either create a city administrator position or hire additional staff to help the clerk perform these additional responsibilities. In some cases, a city may have a specific issue with which it is dealing and may want someone with expertise in the area. For example, if the city is growing rapidly, the council may want someone who can oversee some of its land use matters.

## **VI. How this chapter applies to home rule charter cities**

The section on *Appointed officials and employees* generally applies only to statutory cities. The other sections generally apply to both statutory and home rule charter cities.