

## CHAPTER 1043

## COUNCIL MEMBERS IN CITIES

H. F. 2063

AN ACT to change the defined term "councilman" to "council member" in the city code of Iowa, and to make appropriate conforming amendments.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section sixty-four point one (64.1), Code 1977, is amended by striking subsection six (6) and inserting in lieu thereof the following:

6. City council members, including city commissioners and aldermen, other than mayors.

Sec. 2. Section sixty-nine point four (69.4), subsection five (5), Code 1977, is amended to read as follows:

5. By all ~~councilmen~~ council members and officers of cities, to the clerk or mayor.

Sec. 3. Section three hundred sixty-two point two (362.2), subsection four (4), Code 1977, is amended to read as follows:

4. "~~Councilman~~ Council member" means a member of a council, including an alderman.

Sec. 4. Section three hundred seventy-two point four (372.4), Code 1977, is amended to read as follows:

372.4 MAYOR-COUNCIL FORM. A city governed by the mayor-council form has a mayor and five ~~councilmen~~ council members elected at large, unless by ordinance a city so governed chooses to have a mayor elected at large and an odd number of ~~councilmen~~ council members but not less than five, including at least two ~~councilmen~~ council members elected at large and one ~~councilman~~ council member elected by and from each ward. The council may, by ordinance, provide for a city manager and prescribe ~~his~~ the manager's powers and duties, and as long as the council contains an odd number of ~~councilmen~~ council members, may change the number of wards, abolish wards, or increase the number of ~~councilmen~~ council members at large without changing the form.

However, a city governed, on the effective date of this section, by the mayor-council form composed of a mayor and a council consisting of two ~~councilmen~~ council members elected at large, and one ~~councilman~~ council member from each of four wards, or a special charter city governed, on the effective

date of this section, by the mayor-council form composed of a mayor and a council consisting of two councilmen council members elected at large and one councilman council member elected from each of eight wards, may continue until the form of government is changed as provided in section 372.2 or section 372.9. While a city is thus operating with an even number of councilmen council members, the mayor may vote to break a tie vote on motions not involving ordinances, resolutions or appointments made by the council alone, and in a special charter city operating with ten councilmen council members under this section, the mayor may vote to break a tie vote on all measures.

The mayor shall appoint a councilman council member as mayor pro tem, and shall appoint the marshal or chief of police except where an intergovernmental agreement makes other provisions for police protection. Other officers must be selected as directed by the council. The mayor is not a member of the council and may not vote as a member of the council.

Sec. 5. Section three hundred seventy-two point five (372.5), unnumbered paragraphs two (2), three (3), five (5) and six (6), Code 1977, are amended to read as follows:

A city governed by the commission form has a council composed of a mayor and four councilmen council members elected at large. The mayor administers the department of public affairs and each other councilman council member is elected to administer one of the other four departments.

However, a city governed, on the effective date of this section, by the commission form and having a council composed of a mayor and two councilmen council members elected at large may continue with a council of three until the form of government is changed as provided in section 372.2 or section 372.9 or without changing the form, may submit to the voters the question of increasing the council to five members assigned to the five departments as set out in this section.

The councilman council member elected to administer the department of accounts and finances is mayor pro tem.

The council may appoint a city treasurer or may, by ordinance, provide for his election of that officer.

Sec. 6. Section three hundred seventy-two point six (372.6), Code 1977, is amended to read as follows:

372.6 COUNCIL-MANAGER-AT-LARGE FORM. A city governed by the council-manager-at-large form has five councilmen

council members elected at large for staggered four-year terms. At the first meeting of the new term following each city election, the council shall elect one of the ~~councilmen~~ council members to serve as mayor, and one to serve as mayor pro tem. The mayor is a member of the council and may vote on all matters before the council. As soon as possible after the beginning of the new term following each city election, the council shall appoint a manager.

The council may by ordinance provide that the city will be governed by council-manager-ward form. The ordinance must provide for the election of the mayor and ~~councilmen~~ council members required under council-manager-ward form at the next regular city election.

Sec. 7. Section three hundred seventy-two point seven (372.7), Code 1977, is amended to read as follows:

372.7 COUNCIL-MANAGER-WARD FORM. A city governed by council-manager-ward form has a council composed of a mayor and two ~~councilmen~~ council members elected at large, and one ~~councilman~~ council member elected from each of four wards. The mayor and other ~~councilmen~~ council members serve four-year staggered terms. The mayor is a member of the council and may vote on all matters before the council.

As soon as possible after the beginning of the new term following each city election, the council shall appoint a city manager, and a ~~councilman~~ council member to serve as mayor pro tem.

Sec. 8. Section three hundred seventy-two point eight (372.8), subsection two (2), paragraph d, subsection three (3), paragraphs d and e, and subsection four (4), Code 1977, are amended to read as follows:

d. Supervise the official conduct of all officers of the city ~~whom-he-has~~ appointed by the manager, and take active control of the police, fire, and engineering departments of the city.

d. Suspend or discharge summarily any officer, appointee, or employee ~~that-he~~ whom the manager has power to appoint or employ, subject to civil service provisions and chapter 70.

e. Summarily and without notice investigate the affairs and conduct of any department, agency, officer, or employee under ~~his~~ the manager's supervision, and compel the production of evidence and attendance of witnesses.

4. The city manager shall not take part in any election for ~~councilmen~~ council members, other than by casting ~~his~~

a vote, and shall not appoint a ~~eeuneii~~council member to city office or employment, nor shall a ~~eeuneii~~council member accept such appointment.

Sec. 9. Section three hundred seventy-two point thirteen (372.13), subsections one (1), four (4), eight (8) and nine (9), Code 1977, are amended to read as follows:

1. A majority of all ~~eeuneii~~council members is a quorum.

4. Except as otherwise provided by state or city law, the council may appoint city officers and employees, and prescribe their powers, duties, compensation, and terms. The appointment of a city manager must be made on the basis of ~~his~~ that individual's qualifications and not on the basis of political affiliation.

8. By ordinance, the council shall prescribe the compensation of the mayor, ~~eeuneii~~council members, and other elected city officers, but a change in the compensation of the mayor shall not become effective during the term in which the change is adopted, and the council shall not adopt such an ordinance changing the compensation of the mayor or ~~eeuneii~~council members during the months of November and December immediately following a regular city election. A change in the compensation of ~~eeuneii~~council members shall become effective for all ~~eeuneii~~council members at the beginning of the term of the ~~eeuneii~~council members elected at the election next following the change in compensation. No elected city officer shall receive any other compensation for any other city office or city employment during ~~his~~ that officer's term of office, but may be reimbursed for ~~his~~ actual expenses incurred. However, if the mayor pro tem performs the duties of the mayor during ~~his~~ the mayor's absence or disability for a continuous period of fifteen days or more, the mayor pro tem may be paid for that period such compensation as determined by the council, based upon ~~his~~ the mayor pro tem's performance of the mayor's duties and upon the compensation of the mayor.

9. A ~~eeuneii~~council member, during the term for which ~~he~~ that member is elected, is not eligible for appointment to any city office if the office has been created or the compensation of the office has been increased during the term for which ~~he~~ that member is elected. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which ~~he~~ that person was elected if during that time, the compensation of the office has been increased.

Sec. 10. Section three hundred seventy-two point fourteen (372.14), subsections two (2) and three (3), Code 1977, are amended to read as follows:

2. The mayor may take command of the police and govern the city by proclamation when-he-determines, upon making a determination that a time of emergency or public danger exists. Within the city limits, he the mayor has all the powers conferred upon the sheriff to suppress disorders.

3. The mayor pro tem is vice president of the council. When the mayor is absent or unable to act, the mayor pro tem shall perform the mayor's duties, except that the mayor pro tem may not appoint, employ, or discharge officers or employees without the approval of the council. Official actions of the mayor pro tem when the mayor is absent or unable to act are legal and binding to the same extent as if done by the mayor. The mayor pro tem retains all his of the powers as of a councilman council member.

Sec. 11. Section three hundred seventy-six point two (376.2), unnumbered paragraph three (3), and subsections one (1), two (2), three (3) and four (4), Code 1977, are amended to read as follows:

At the first regular city election after the terms of councilmen council members are changed to four years, terms shall be staggered as follows:

1. If an even number of councilmen council members are elected at large, the half of the elected councilmen council members who receive the highest number of votes are elected for four-year terms. The remainder are elected for two-year terms.

2. If an odd number of councilmen council members are elected at large, the majority of the elected councilmen council members who receive the highest number of votes are elected for four-year terms. The remainder are elected for two-year terms.

3. In case of a tie the mayor and clerk shall determine by lot which councilmen council members are elected for four-year terms.

4. If the councilmen council members are elected from wards, the councilmen council members elected from the odd-numbered wards are elected for four-year terms and the councilmen council members elected from even-numbered wards are elected for two-year terms.

Sec. 12. Section three hundred eighty point four (380.4), Code 1977, is amended to read as follows:

380.4 MAJORITY REQUIREMENT--TIE VOTE. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the council members, except when the mayor may vote to break a tie vote in a city with an even number of ~~councilmen~~ council members, as provided in section 372.4. A motion to spend public funds in excess of ten thousand dollars on any one project, or a motion to accept public improvements and facilities upon their completion, also requires an affirmative vote of not less than a majority of the council members. Each ~~councilman's~~ council member's vote on an ordinance, amendment, or resolution must be recorded.

Sec. 13. This bill is effective January 1, 1979.

Approved April 13, 1978

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## CHAPTER 1044

### GRAIN DEALERS

S. F. 389

AN ACT relating to persons who engage in the business of buying or selling grain, or who participate in the buying or selling of grain as a bargaining agent for the benefit of others, and providing a penalty.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section sixty-eight A point seven (68A.7), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Financial statements submitted to the Iowa state commerce commission pursuant to chapter five hundred forty-two (542) or chapter five hundred forty-three (543) of the Code, by or on behalf of a licensed grain dealer or warehouseman or by an applicant for a grain dealer license or warehouse license.

Sec. 2. Section five hundred forty-two point one (542.1), subsection three (3), Code 1977, is amended to read as follows:

3. "Grain dealer" shall mean any person who is engaged in the business of buying grain for resale or any merchandiser. ~~This However,~~ "grain dealer" shall not be construed to mean a person solely engaged in buying or selling on the board of trade, grain on-the-board-of-trade-or-any future contracts; a person who sells-purchased purchases grain only for sale in a registered feed; a person engaged in the business of