

Organization

CHAPTER 410

CLASSIFICATION; CHARTERS

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410.01 HOW CLASSIFIED. Cities are hereby divided, for legislative purposes, into classes as follows:

First class—Those having more than 50,000 inhabitants;

Second class—Those having 20,000, and not more than 50,000, inhabitants;

Third class—Those having more than 10,000, and not more than 20,000, inhabitants; and

Fourth class—Those having not more than 10,000 inhabitants.

Changes in classification resulting from any future state or national census shall not take effect until the first Monday in January next after the taking thereof. Meanwhile the council or other governing body shall take measures for the election of proper officials and for dividing the city into wards, if necessary, and otherwise prepare for the coming change.

[R. L. s. 746] (1265)

410.02 CENSUS GOVERNS. For the purpose of determining the classification of the several cities of this state and for the purpose of construing any law relating to the affairs of cities applicable only to cities of a prescribed population, the population of every such city shall be ascertained and determined by adding five per cent of the total population of every such city, as shown by the last state or federal census, to such population, and the population as so computed shall be taken to be the population of each such city in this state for those purposes. This shall not be construed as amending or repealing any provision of a home rule charter providing a different method for ascertaining the population of the city governed by such charter.

In case the provision of this section for an addition of five per cent to the census figures shall be held invalid, the remainder of the section shall not be invalidated by reason thereof but shall remain in full force and effect.

[1911 c. 73 s. 1; 1921 c. 12] (1266)

410.03 EXISTING CHARTERS PRESERVED. Until otherwise provided in accordance with this chapter, all cities existing at the time of the taking effect of the Revised Laws 1905 shall continue to be governed by the laws then applicable thereto.

[R. L. s. 747] (1267)

410.04 HOME RULE CHARTERS; PATROL LIMITS. Any city or village in the state may frame a city charter for its own government in the manner herein-after prescribed; provided, that in such cities having patrol limits established by charter, such limits shall not be altered unless the charter proposing such alteration be adopted by a three-fourths majority.

[R. L. s. 748; 1907 c. 375 s. 1] (1268)

410.05 BOARD OF FREEHOLDERS. When the judges of the judicial district in which such city or village is situated, shall deem it for the best interest of the

municipality so to do, they may appoint a board of freeholders to frame such charter, composed of 15 members, each of whom shall have been a qualified voter of such city or village for five years last past; and, upon presentation to them of a petition requesting such action, signed by at least ten per cent of the number of voters of such municipality, as shown by the returns of the election last held therein, they shall appoint such board. The members shall severally hold office for the term of four years, or until they cease to be such resident voters and freeholders, and vacancies in the board shall be filled by appointment of the judges for the unexpired terms. Upon the expiration of such four-year term, the judges shall appoint a new board, in case for any reason the judges shall fail to appoint a new board within 30 days then thereafter at any time the judges upon their own motion may, and upon the written petition of ten freeholders of the city, shall appoint the new board. Every appointment shall be made by order filed with the clerk of the court. Every appointee who shall neglect to file with the clerk within 30 days a written acceptance and oath of office shall be deemed to have declined such appointment and his place shall be filled as though he had resigned. The judges, within 30 days thereafter, shall make such rules with reference to such board, and require such reports, as may appear desirable or necessary. Any appointee who has qualified by filing his written acceptance and oath of office within 30 days may thereafter be removed at any time from office, by written order of the district court, the reason for such removal being stated in the order; and upon receiving a certificate in writing, signed by a majority of the entire board of freeholders, setting forth that any member has failed to perform the duties of his office and has failed to attend four consecutive meetings, without being excused by the board, and requesting a removal of such member, the district court shall thereupon make its order of removal, and fill the vacancy created as in the case of a resignation.

[R. L. s. 749; 1909 c. 423; 1913 c. 535 s. 1] (1269)

410.06 COMPENSATION; EXPENSES. The members of such board shall receive no compensation, but the board may employ an attorney and stenographer to assist in framing such charter, and any amendment or revision thereof, and their reasonable compensation and the cost of printing such charter, or any amendment or revision thereof, when so directed by the board, shall be paid by such city or village. The cost of preparation, printing, and legal services in framing and submitting such charter in the first instance shall not exceed \$500.

[R. L. s. 750; 1907 c. 216 s. 1] (1270)

410.07 FRAMING CHARTER. Within six months after such appointment, the board of freeholders shall deliver to the chief executive of the city or village the draft of a proposed charter, signed by at least a majority of its members. Such draft shall fix the corporate name and the boundaries of the proposed city, and provide for a mayor, and for a council, consisting of either one or two branches; one in either case to be elected by the people. Subject to the limitations in this chapter provided, it may provide for any scheme of municipal government not inconsistent with the constitution, and may provide for the establishment and administration of all departments of a city government, and for the regulation of all local municipal functions, as fully as the legislature might have done before the adoption of the Constitution of the State of Minnesota, Article 4, Section 36. It may omit provisions in reference to any department contained in special or general laws then operative in the city or village, and provide that such special or general laws, or such parts thereof as are specified, shall continue and be in force therein, including any such special or general laws authorizing the city or village to incur indebtedness or issue its bonds for municipal purposes. It may prescribe methods of procedure in respect to the operation of the government thereby created, and the duties thereunder of all courts and officers of the district and county in which the city is situated, which duties such courts and officers shall perform. By such charter the city may be authorized to acquire, by gift, devise, purchase, or condemnation, any property, within or without its boundaries, needed for the full discharge of any public function which it is permitted to exercise. Nothing in this section shall authorize a change of boundaries, except that boundaries may be changed so as to include lands and property contiguous thereto when not lying at a distance of more than three miles from the boundaries of the original corporation and when used for industrial or mining purposes or occupied or leased for such purposes, if the person, association, or corporation so using, occupying, or

leasing the same, by writing presented to the board of freeholders at any time before a draft of the proposed charter is delivered to the chief executive of such city or village, so request.

[R. L. s. 751; 1921 c. 120; 1921 c. 343] (1271)

410.08 BONDED INDEBTEDNESS. Except as authorized in section 410.07, no such charter shall permit the issue of any bonds of the city whereby its bonded indebtedness would be made to exceed ten per cent of the last assessed valuation of the taxable property therein, including money and credits. Any such charter may provide that certificates of indebtedness or bonds issued before or after its adoption shall not be included in or counted as a part of such bonded indebtedness, if (1) held in a sinking fund maintained by such city or village; or (2) issued for the acquisition, equipment, purchase, construction, maintenance, extension, enlargement, or improvement of street railways, telegraph or telephone lines, water, lighting, heat and power plants, or either, or any other public convenience from which a revenue is or may be derived, owned and operated by such city or village, or the acquisition of property needed in connection therewith, or for the construction of public drainage ditches or the acquisition of lands for, or for the improvement of streets, parks, or other public improvements, to the extent that they are payable from the proceeds of assessments levied upon property especially benefited by such ditches or improvements, or (3) issued for the creation or maintenance of a permanent improvement revolving fund; or (4) for the purpose of anticipating the collection of general taxes for the year in which issued. Any such charter may provide that the city may issue certificates of indebtedness or bonds to any limit prescribed therein, without approval of the voters, if such issue be for either of the last two mentioned purposes, or for the purpose of extending, enlarging, or improving water and lighting and heat and power plants, or either, owned and operated by such city, or of acquiring property needed in connection therewith, or for the purpose of funding floating indebtedness incurred by the city or village before the adoption of the charter, or for any municipal purposes or improvements in respect to which the city or village is authorized by any special or general law to incur indebtedness or issue certificates of indebtedness or bonds at the time of the adoption of the charter.

[R. L. s. 752; 1921 c. 120] (1272)

410.09 REGULATION OF FRANCHISES. Such proposed charter may provide for regulating and controlling the exercise of privileges and franchises in or upon the streets and other public places of the city, whether granted by the city or village, by the legislature, or by any other authority; but no perpetual franchise or privilege shall ever be created, nor shall any exclusive franchise or privilege be granted, unless the proposed grant be first submitted to the voters of the city or village, and be approved by a majority of those voting thereon, nor in such case for a period of more than 25 years.

[R. L. s. 753] (1283)

410.10 CHARTER; HOW SUBMITTED. Upon delivery of such draft, the council or other governing body of the city or village shall cause the proposed charter to be submitted at the next general election thereafter occurring in the city or village within six months after the delivery of such draft, and if there is no general city or village election occurring in the city or village within six months after the delivery of such draft, then the council or other governing body of the city or village shall cause the proposed charter to be submitted at a special election to be held within 90 days after the delivery of such draft. The council or other governing body may call a special election for that purpose only at any time. If the election is held at the same time with the general election, the voting places and election officers shall be the same for both elections. The ballot shall bear the printed words, "Shall the proposed new charter be adopted? Yes—No," with a square after each of the last two words, in which the voter may place a cross to express his choice. If any part of such charter be submitted in the alternative, the ballot shall be so printed as to permit the voter to indicate his preference in any instance by inserting a cross in like manner. If any charter so submitted be rejected the board may propose others from time to time until one is adopted.

[R. L. s. 754; 1909 c. 214 s. 1] (1284)

410.11 HOW ADOPTED; JUDICIAL NOTICE. If four-sevenths of those lawfully voting at such election shall declare in favor of the proposed charter, it shall be considered adopted; and, if any provisions thereof were submitted in the alterna-

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tive, those ratified by a majority of the votes cast thereon shall prevail. The certificates provided for in the Constitution of the State of Minnesota, Article 4, Section 36, being deposited and recorded as thereby required, the charter shall take effect at the end of 30 days from the date of the election, and shall then supersede all other charter provisions relating to such city or village. Thereupon the courts shall take judicial notice of the new charter and, upon the election of officers thereunder, the officials of the former corporation shall deliver to them the records, money, and other public property in their control.

[R. L. s. 755] (1285)

410.12 AMENDMENTS. Subdivision 1. **Proposing amendments.** The board of freeholders may propose amendments to such charter, and shall do so upon the petition of five per cent of the voters of the city. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed, and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment shall first be submitted to the charter commission for its approval as to form and substance, the commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subd. 2. **Petitions.** The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the city, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State of..... }
County of..... } ss.

.....being duly sworn, deposes and says that he, and he only, personally circulated the foregoing paper, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Signed.....
(Signature of Circulator)

Subscribed and sworn to before me
this.....day of.....19...
Notary Public (or other officer)
authorized to administer oaths

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

Subd. 3. **May be assembled as one petition.** All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument. Within ten days after such petition is transmitted to the city council, the city clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of voters. The city clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required in this section. Upon completing his examination of the petition, the city clerk shall certify the result of his examination to the council. If he shall certify that the petition is insufficient he shall set forth in his certificate

the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings. A petition may be amended at any time within ten days after the making of a certificate of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is filed, make examination of the amended petition, and if his certificate shall show the petition still to be insufficient, he shall file it in his office and notify the committee of the petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Subd. 4. Publication. Amendments shall be submitted as in the case of the original charter, and the proposal shall be published once a week for four weeks in at least one newspaper of general circulation in such city. In every city of the first class, the publication shall be made in a newspaper having an aggregate regular paid circulation of at least 25,000 copies and the governing body of any city of the first class may in addition thereto publish said proposal in any other legal newspaper located in said city. The form of ballot and mode of voting shall be similar to those used upon the adoption of such charter, the general nature of each amendment being briefly indicated. If three-fifths of those lawfully voting at such election shall declare in favor of any amendment so proposed, the same shall be certified, deposited and recorded, and shall take effect, as in the case of the original charter, provided that, if it be proposed that any amendment shall take effect at a specified time, it shall take effect as proposed.

[R. L. s. 756; 1907 c. 199 s. 1; 1911 c. 343 s. 1; 1939 c. 292 s. 1; 1943 c. 227 s. 1] (1286)

410.13 AMENDMENTS IN CITIES OF FOURTH CLASS; POSTPONING ELECTION. The council of any city of the fourth class governed by a home rule charter may postpone the city election in the city for a period not to exceed five weeks, when a special election has been called to vote on any proposed amendment to the city charter, which amendment, if adopted, will not take effect prior to the date fixed for the city election in the city charter, and which amendment provides for holding the city election at a later date than is provided in its charter.

[1913 c. 35 s. 1] (1287)

410.14 ALTERNATIVE PROPOSALS. In submitting a charter or an amendment to the voters any alternative section or article may be presented and voted on separately, without prejudice to other articles or sections of the charter or any amendments thereto.

[R. L. s. 757] (1288)

410.15 SUCCESSION; SUBSISTING RIGHTS. The new city so organized shall be in all respects the legal successor of the former corporation, and no charter so adopted, nor any amendment thereof, shall prejudice any subsisting right, lien, or demand against the city or village superseded, or affect any pending action or proceeding to enforce the same. All rights, penalties, and forfeitures accrued or accruing to such former corporation, all property vested therein or held in trust therefor, all taxes and assessments levied in its behalf, and all its privileges and immunities not inconsistent with the new charter, shall pass to its successor. All ordinances, resolutions, and by-laws in force at the adoption of such new charter, and not in conflict with its provisions, shall continue in force until duly altered or repealed.

[R. L. s. 758] (1289)

410.16 COMMISSION FORM OF CITY GOVERNMENT. The board of freeholders, appointed under the provisions of sections 410.04 to 410.11, are hereby authorized and empowered, in addition to all powers now granted to any such board of freeholders, to incorporate as part of the proposed charter for any city the commission form of city government, and to provide that all elective city officers, including mayor and members of the council, shall be elected at large or otherwise.

[1909 c. 170 s. 1] (1290)

410.17 OFFICERS, HOW NOMINATED AND ELECTED. Such board of freeholders may also provide in such proposed charter that all candidates to be voted for at all general municipal elections shall be nominated by a primary election, and that no other names shall be placed upon the ballot to be voted upon at such

election, except the names of those elected in the manner which may be prescribed by such charter; and such charter may provide for a primary election to be held at such time as may be fixed preceding the general municipal elections, and that the judges of election for the general municipal election shall be the judges of the primary election, and may provide in what manner any person desiring to become a candidate for any elective municipal office may become a candidate for nomination at such primary election, and may provide for the publication of statements and petitions of candidates, the form of the primary election and municipal election ballots and for publication thereof, and may provide that there shall or shall not be any party designation or mark indicating that any candidate is a member of any party whatsoever, whether on the primary election ballot or upon the municipal election ballot, and may make provisions with reference to the printing, delivery, and authentication of ballots and for the counting and canvass of results of such primary election or municipal election.

[1909 c. 170 s. 2] (1291)

410.18 DISTRIBUTION OF ADMINISTRATIVE POWERS. Such board of freeholders may also provide that the administrative powers, authority, and duties in any such city shall be distributed into and among departments and may provide that the council may determine the powers and duties to be performed by and assign them to the appropriate department and determine who shall be the head of each department and prescribe the powers and duties of all officers and employees thereof, and may assign particular officers or employees to perform duties in two or more departments, and make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

[1909 c. 170 s. 3] (1292)

410.19 POWERS OF MAYOR AND COUNCIL. The board of freeholders may incorporate in such charter provisions defining the powers and duties of the mayor and each member of the council, and may provide that each member of the council shall perform such administrative duties as may be designated in such charter.

[1909 c. 170 s. 4] (1293)

410.20 RECALL AND REMOVAL OF OFFICERS; ORDINANCES. Such board of freeholders may also provide for the recall of any elective municipal officer and for his removal by vote of the electors of such city, and may also provide for submitting ordinances to the council by petition of the electors of such city and for the repeal of ordinances in like manner; and may also provide that no ordinance passed by the council, except an emergency ordinance, shall take effect within a certain time after its passage, and that if, during such time, a petition be made by a certain percentage of the electors of the city protesting against the passage of such ordinance until the same be voted on at an election held for such purpose, and then such ordinance to take effect or not as determined by such vote.

[1909 c. 170 s. 5] (1294)

410.21 APPLICATION OF GENERAL ELECTION LAWS. The provisions of any charter of any such city adopted pursuant to this chapter shall be valid and shall control as to nominations, primary elections, and elections for municipal offices, notwithstanding that such charter provisions may be inconsistent with any general law relating thereto, and such general laws shall apply only in so far as consistent with such charter.

[1909 c. 170 s. 6] (1295)

410.22 SUBMISSION OF AMENDMENTS. Nothing in this chapter contained shall be held to abridge, impair, or diminish the right of electors in any city now having or which shall hereafter have such a board of freeholders and a home rule charter, to require the submission of amendments to the charter of such city, as provided in section 410.12, but, in addition to the provisions of section 410.12, five per cent of the electors may, by petition, as provided in section 410.12, require the submission of amendments to such charter, embodying the commission plan of government, in whole or in part, as more particularly described and set forth in sections 410.16 to 410.21.

[1909 c. 170 s. 7] (1296)

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410.23 NEW CHARTER AUTHORIZED. Any city in this state which now has, or may hereafter adopt, a so-called "home rule" charter by and under the provisions of the Constitution of the State of Minnesota, Article 4, Section 36, and of any statutes enacted in pursuance thereof, is hereby authorized and empowered to frame, submit, and adopt a new charter in the same manner and mode as is by law provided for the original adoption of such so-called "home rule" charter.

[1909 c. 236 s. 1] (1297)

410.24 AMENDMENTS AUTHORIZED. Any city named in section 410.23 is hereby authorized and empowered to amend its present so-called "home rule" charter in the nature of a revision and submit and adopt such revision as is by law provided for the original adoption of such so-called "home rule" charter.

[1909 c. 236 s. 2] (1298)

410.25 NOT OBLIGATORY TO REPORT TO CHIEF MAGISTRATE WITHIN SIX MONTHS. It shall not be necessary or obligatory for the board of freeholders framing such new charter, or making such revision under sections 410.23 and 410.24, to return the same to the chief magistrate of such city within six months.

[1909 c. 236 s. 3] (1299)

410.26 NEW CHARTER. Within six months after the annexation of any territory to any city as herein provided, the board of freeholders to frame charters, as provided by section 410.05, if such board of freeholders shall have been appointed, shall frame a charter for such city as the same exists after such annexation and deliver to the chief executive of such city the draft of such proposed charter as provided in section 410.07, and the same shall be submitted for the approval of the voters of such city as provided by law.

[1909 c. 137 s. 13] (1692)