

Section VIII APPOINTIVE OFFICERS

Section 8.1. City Manager.

- a) The office of city manager is established as the administrative head of the city government.⁵¹ The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies established by ordinances and resolutions.⁵²
- b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.⁵³
- c) The manager need not reside in the city.⁵⁴
- d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.
- e) The manager must:
 - 1) Attend all council meetings unless excused by the mayor or council;
 - 2) Make reports and recommendations to the mayor and council about the needs of the city;
 - 3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits and other city decisions;

⁵⁰ A member's disability under this section is usually temporary. If the disability is permanent, it often results in the resignation of the disabled member. A permanent disability does not create a vacancy unless the member resigns. However, the council may appoint a pro tem councilor, and the appointment may continue until a successor to the disabled member is elected and takes office.

⁵¹ The city manager exercises the administrative authority delegated by the city charter and the city council. The manager and the council both exercise administrative authority. Only the council may exercise legislative authority.

⁵² This gives the manager a role in policy development consistent with the 8th edition of the NCL Model Charter (2011). It makes the manager responsible for carrying out city policy adopted by council resolution or ordinance.

⁵³ This section adds more specific qualifications for city manager consistent with the 8th edition of the NCL Model Charter (2011).

⁵⁴ If the city wants the charter to require the manager to live in the city, the following may be added: "but must become and remain a resident of the city while manager." In the alternative, if a residency requirement is desired but is not practicable due to a housing shortage or other condition, the following may be added: "but must live within 30 miles of the city." Either requirement can be imposed more flexibly by ordinance or contract.

- 4) Appoint, supervise and remove city employees;⁵⁵
 - 5) Organize city departments and administrative structure;
 - 6) Prepare and administer the annual city budget;
 - 7) Administer city utilities and property;
 - 8) Encourage and support regional and intergovernmental cooperation;
 - 9) Promote cooperation among the council, staff and citizens in developing city policies and building a sense of community;⁵⁶
 - 10) Perform other duties as directed by the council; and
 - 11) Delegate duties, but remain responsible for actions of all subordinates.
- f) The manager has no authority over the council or over the judicial functions of the municipal judge.⁵⁷
- g) The manager and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.
- h) When the manager is temporarily disabled from acting as manager or when the office of the manager becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.
- i) No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts.⁵⁸ Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the manager relating to city business.⁵⁹

⁵⁵Note that the manager appoints, supervises and removes city employees. The council appoints, supervises and removes city officers.

⁵⁶Subsections (8) and (9) of this section add provisions that update the charter by recognizing the increasing importance of regional and intergovernmental issues, and the participatory nature of policy development. They are consistent with the 8th edition of the NCL Model Charter (2011).

⁵⁷Municipal judges have administrative duties incidental to their judicial functions such as record keeping and accounting for certain funds. These administrative duties may be supervised by the city manager.

⁵⁸A similar charter restriction was the basis for damages in *Still v. Benton*, 251 Or 463, 445 P2d 492 (1968). The court found that the mayor did not act within the scope of his authority in pressuring the manager to discharge the police chief. The chief was awarded punitive as well as general damages.

⁵⁹This does not affect the ability of a council member to obtain information from the manager or other city employees. Council members also have at least as much right to public records as other members of the public under the Oregon Public Records Law, ORS 192.311 to 192.431.