

CHAPTER 4
COMMON COUNCIL

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4-01. Legislative Authority. The municipal government of the city shall be vested in the mayor and common council; and the style of all ordinances shall be "the mayor and common council do ordain," etc. (S. 1, Subch. 4, Ch. 184, L. 1874.)

4-02. Certain Statutes Inapplicable. No city of the first class, whether organized under general or special charter, shall hereafter in any manner be deemed to be operating under the provisions of Sections 925-2 to 925-294, both inclusive, unless said city shall specifically elect to come under the said sections in the manner prescribed by Sections 925-2 to 925-6, inclusive, or unless any of said sections shall contain an express provision declaring it to be applicable to cities operating under special charter, provided, however, that the term "all cities" in the general charter statute shall not be deemed to be such an express provision. (S. 925-6a Stats. 1921.)

4-03. Powers of City, How Construed. 1. All cities of the first class in this state are hereby granted the powers necessary to give full force and effect to the intention hereof.

2. Whenever the legislature has heretofore granted to any city, however incorporated, a general welfare clause, preceded or followed by specific grants of power, such specific grants shall not be construed as restrictions upon such general welfare clause, but such general welfare clause shall be given a liberal construction, to the end that the cities may exercise all powers granted therein or reasonably implied therefrom.

3. All statutes enacted by the legislature granting to such cities any powers or prescribing the method and manner of executing said powers shall be given a liberal construction, to the end that such cities shall be given the largest possible power and leeway of actions under such statutes.

4. Whenever the legislature has heretofore or may hereafter grant any such city power to do anything, such power shall be construed as including all things necessary to carry out said grant; and whenever, in construing any statute granting any powers or any rights to cities, there shall arise merely a question of doubt as to whether the legislature intended to grant any power or right, whether expressed or implied, such doubt, shall be resolved in favor of the city possessing such power or right, whether such power or right shall concern the above or the manner of carrying out any power or right.

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5. Such cities are hereby empowered to employ experts and to provide for commissions and to pay salaries therefor, to investigate and report upon any matter which may concern the city, and to act in any advisory capacity to any public official or body. (S. 1, Ch. 678, L. 1913.)

4-04. Powers of City. Any city of the first class organized under special charter may exercise the powers granted to cities under general laws of 1907 in the manner prescribed by such law and subject to the same limitations. (S. 926-42 Stats. 1907.)

4-05. Conduct of Common Council Business.

1. The common council shall hold stated meetings at such times and places as they shall appoint. The mayor or the president of the common council may call special meetings by notice of at least 24 hours, except that in an emergency as determined by the mayor a 6 hour notice shall suffice, to each of the members, to be served personally, or left at his or her usual place of abode. Special meetings may also be called on not less than 6 hours' notice by the president at the written request of the majority of the members of the council at the time of the request. Special meetings shall also be called on not less than 24 hours' notice by the president at the written request of 5 members of the council at the time of the request.

2. The common council shall determine the rules for their own government and proceedings, provided such rules are consistent with the provisions of ch. 184, L. 1874. A majority of the members at the time of the meeting shall be required to constitute a quorum for the transaction of business, but a smaller number may adjourn. Their session shall be open and public and their proceedings shall be recorded. All their papers and records, and all the election returns, shall be deposited with the clerk of the common council, and may be examined at any time in the presence of the clerk.

3. Each member of the common council shall have one vote on any one question. The ayes and noes may be required by any member. On all questions, ordinances or resolutions for assessing and levying taxes, or for the appropriation or disbursement of money, or creating any liabilities or charge against the city or any fund thereof, the vote shall be taken by ayes and noes. Every vote by ayes and noes shall be entered at length upon the journal.

4. The common council shall be the judge of the election and qualification of its own members, and may:

a. Punish its members or other persons present, by fine, for disorderly behavior.

b. Compel the attendance of its members upon its sessions, and employ the police of the city for that purpose.

c. Fine or expel any member for neglecting his or her duty as such member, or for unnecessary absence from the sessions of the council.

5. At all elections or confirmations by the common council, the vote shall be given orally, and shall be duly recorded by the clerk in the journal. The concurrence of a majority of the members at the time of the vote shall be necessary to an election or confirmation.

6. The common council is a continuing body, and unfinished business pending before it shall not lapse or go down with the council year, but all pending business before the common council, or any committee thereof, at the termination of any council year shall be considered as pending before the common council of the next succeeding council year, or the corresponding committee thereof, and may be acted upon and disposed of by the council of such succeeding year in the same manner and with the same effect as if no change in such common council had taken place, by the expiration of the council year.

(HISTORY: Section 4-05 am. Ch. Ord. 514, File #81-1661, Feb. 25, 1982.

4-05 am. Ch. Ord. 564, File # 86-802, Feb. 3, 1987; eff. Apr. 20, 1987.)

4-06. Ordinances; Passage and Publication.

1. All ordinances, rules, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the members of the common council at the time of the vote except when otherwise specifically provided. No ordinance shall be passed, no appropriation shall be made, and no act, regulation, resolution or order which may create a debt or liability against the city or charge upon any fund thereof shall be adopted without a vote in its favor of a majority of the members of the common council at the time of the vote, which vote shall be taken by the ayes and noes and entered among the proceedings of the council.

2. Every ordinance to establish or change the grade of any street or alley shall be introduced into the common council upon the recommendation of the city engineer and shall be passed by an affirmative vote of 2/3 of the members of the common council at the time of the vote. A listing of the streets and alleys, specifying the portions thereof affected, shall be set forth within the body of the ordinance, with the proposed grades detailed in substantiating data attached to the ordinance file. The official record of the grades for all streets and alleys shall be kept by the city clerk.

3. All ordinances passed by the common council shall be signed by its presiding officer, attested by the city clerk and approved by the mayor and shall be published in the official newspaper of the city before the same shall be in force. The publication of each ordinance in the official newspaper shall contain the number of the common council file from which it originated, the dates of passage and publication, the relating clause and either the full text of the ordinance or a notice of where the full text of the ordinance can be obtained. Publication shall be within 15 days of passage, excluding Saturdays, Sundays or holidays and shall be proved by an affidavit of the foreman or publisher of the official newspaper. The city clerk shall file the affidavit, which shall be deemed sufficient evidence of publication, with its respective ordinance file and the ordinance shall be engrossed by the city clerk and kept on file as part of the official record of the city.

*(HISTORY: Section 4-06 rc. Ch. Ord. 339, File #67-410-a, Mar. 19, 1968.
4-06-0 (title) am. Ch. Ord. 564, 86-802, Feb. 3, 1987; eff. Apr. 10, 1987.
4-06-0 (title) rc. File #86-2041, Apr. 1, 1987; eff. May 31, 1987.
4-06-1 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. Apr. 20, 1987.
4-06-2 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. Apr. 20, 1987
4-06-3 am. File #86-2041, April 1, 1987; eff. May 31, 1987.)*

4-08. Effect of Time Requirements on Elections and Duties. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or absolving

said corporation, but such election or organization may be had on any subsequent day by order of the common council; and if any of the duties enjoined by this act or the ordinances or by-laws of the city, to be done by any officer at any specified time, are not then done or performed, the common council may appoint another time at which the said acts may be done and performed. *(S. 7, Subch. 20, Ch. 184, L. 1874.)*

4-09. Reconsideration at Special Meetings. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such vote was taken. *(S. 6, Subch. 4, Ch. 184, L. 1874.)*

4-10. Management of Finances and Property. The common council shall have the management and control of the finances, and of all the property of the city, except as in this act or otherwise provided, and shall likewise, in addition to all other powers herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, by-laws and regulations for the government and good order of the city --- for the benefit of the trade, commerce and health thereof --- for the suppression of vice --- for the prevention of crime --- and for carrying into effect the powers vested in said common council, as they shall deem expedient; and to declare and impose penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules, by-laws and regulations. And such ordinances, rules, by-laws and regulations are hereby declared to be, and have the force of law; provided, that they be not repugnant to the constitution of the United States or of this state. And for these purposes the common council shall have authority --- anything in any general law or this state to the contrary notwithstanding --- by ordinances, resolutions, by-laws, rules or regulations. *(Intro. par. S. 3, Subch. 4, Ch. 184, L. 1874.)*

(Note: Following the above intro. par. are numerous numbered subsections relating to specific authority which subsections are not set forth herein. For powers of the city, see also S. 3, Art. XI, Wis. Const., S. 66.01 Stats. and S. 62.11(5) Stats., made applicable by Ord. 203, F#50790, passed Feb. 6, 1933.)

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4-11. Auditing Accounts. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, board of public works, and all other officers or agents of the city, at such times as they may deem proper, and also at the end of each year, and before the term for which the officers of said city are elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers, for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of their duties in pursuance to this section, or shall neglect or refuse to render his accounts or present his books and vouchers to said council, or any authorized committee thereof, it shall be the duty of the common council to declare the office of such person vacant. The common council shall order suits and proceedings at law against any officer and agent of said city, who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties. And they shall also make a full record of all such settlements and adjustments. (S. 9, Subch. 4, Ch. 184, L. 1874.)

4-12. Sick Leave; Vacation; Overtime. 1. The common council of any city of the first class, however incorporated, is hereby empowered to grant sick leave with pay to employes of any such city, and such common council is empowered to provide uniform rules and regulations governing the amount, extent, care, reports and other matters incident to such leave.

2. The common council of any such city, however incorporated, is hereby empowered to grant vacation periods with pay to any such employes and to provide uniform rules and regulations governing the extent of said vacation and other matters incident thereto.

3. The common council of any such city, however incorporated, is hereby empowered to pay to employes of such city compensations for overtime and to provide uniform rules and regulations governing the amount and the means of determining when any such employe shall be compensated for overtime. (S. 1 thru 3, Ch. 279, L. 1923.)

4-14. Funds for Concerts. The common council is authorized to appropriate funds for the aid of any orchestral society or other similar musical organizations in the giving of concerts in the city of Milwaukee. (Section 4-14 am, Ch. Ord. 310, File #64-4089, Apr. 6, 1965.)

4-15. Funds for Celebrations. The common council may appropriate money to defray the expenses of celebrations or observances. The money appropriated for any of such purposes shall be expended in such manner and under such control as the common council shall direct. Any appropriation to defray the expenses of any celebration or observance shall be conditioned that such event or activity is open to the general public. Such moneys shall not be expended except upon the adoption of a resolution by the common council declaring that the event or activity for which the moneys are appropriated have a municipal purpose and promote the best interests and general welfare of the city. The resolution appropriating said moneys shall further provide that such funds or any part thereof shall not be used in any manner or for any purpose which violates the separation of church and state doctrine or aid, directly or indirectly, any political campaign or partisan cause. (Section 4-15 rc. Ch. Ord. 428, File #75-1355, Nov. 11, 1975.)

4-16. Garbage Facilities. Every city of the first class in this state, whether organized under special or general law, is hereby authorized to provide for the disposal of the garbage of such city by the reduction process, or otherwise, and to sell and dispose of the products obtained in the process of garbage disposal or reduction in such manner as such city may determine; and every such city is hereby authorized to incur indebtedness and to issue bonds in the manner provided by law for the erection and maintenance of garbage reduction or disposal plants. This act shall be liberally construed in favor of the city exercising the powers herein granted, and shall not be construed as a limitation upon any powers now possessed by any such city. (S. 926-180 Stats. 1917.)

4-17. Publications. 1. BY DEPARTMENT OF ADMINISTRATION. If the common council by resolution determines that the department of administration shall under its authority and in accordance with its usual procedures let the bids for all publishing and publications which the common council is required to make, then the department shall proceed to let the bids and provide for the printing of such publishing and publications; if the common council does not so determine, then subs. 2 and 3 shall apply. (*Sub. 1 am. File #881394, Dec. 20, 1988; eff. March 13, 1989.*)

2. TO REQUEST BIDS. The common council shall on or before the 1st Tuesday in April, in each year direct the city clerk to invite proposals to do the advertising for the city for the next ensuing year thereafter, and until a new contract is awarded, of all ordinances, notices and all the city advertising required by law, or by resolution or ordinance of the common council, to be published in a newspaper, and also for proposals to publish the proceedings of the common council as may be ordered by the council. He or she shall invite separate bids for the advertising required, which advertising may be divided and classified if the council shall so order, and for publishing the proceedings of the common council, and shall invite such bids from the English newspapers published daily in such city for at least 2 consecutive years prior to the date of the bids, and shall require the delivery of such proposals in writing duly sealed, and directed to the city clerk, on or before the 3rd Thursday of April of the then current year. Such proposals shall name a price per folio, or shall name a price per folio per 1,000 or average daily circulation in such city for the period of 6 months next preceding the date of such proposals, as shown by the affidavit of an authorized officer or agent of such proponent, or shall name a price for such advertising space as may be required or ordered by the common council at any time during the year for which awards shall be made, or at the option of the proponent, shall include any or all of such separate proposals as aforesaid. No bids for either kind of work shall be considered by the city clerk except from a daily newspaper which has been published in such city at least 2 years consecutively next before the date of the bid, and no bid shall be considered unless accompanied by a certificate from the city

treasurer, showing that the bidder has deposited with him or her \$500 in money, or United States bonds, and a written agreement, executed by the bidder under seal, to the effect that if such bid, either for advertising or publishing proceedings, be accepted, and upon being notified thereof, such bidder shall fail to enter into and execute a contract for the advertising, or the publication of proceedings, or for both, as required by this act, within the time prescribed by the clerk, then and in such case the \$500 shall become absolutely forfeited to the city. If a bid is rejected in case the bidder makes but one, and if both bids are rejected in case the bidder makes 2 bids, the certificate of the city treasurer, the agreement, and the \$500 shall be thereupon returned to the bidder. The clerk shall, on the 3rd Tuesday in April in each year at noon, in the presence of the mayor, open all such bids or proposals, and shall thereupon in the presence of the mayor, enter upon a record to be kept by the clerk for that purpose, all the proposals for either kind of work, with the respective prices for which such newspapers shall offer to do either the advertising or the publication of the proceedings of the common council. And thereupon the clerk shall transmit all such proposals to the common council, at the next regular meeting thereof, held after the opening of such proposals, and a statement of all such proposals, designating therein the several rates respectively made by newspapers for such advertising, or such publication of council proceedings, or both of them, at the lowest price for the time herein specified. The common council shall thereupon by its resolution, designate and award such advertising, and such publication of council proceedings to the newspaper or newspapers, so published in such city in the English language, which shall respectively offer to do such advertising and such publication of proceedings, or either, at the lowest price for the time herein specified, or, the common council may award such advertising and such publication proceedings or either to the lowest bidder or to the lowest bidder based upon a rate per 1,000 of average circulation in the city, or the common council may award such advertising and such publication of council proceedings, or either, to the lowest bidder and also to the lowest bidder based upon a rate per 1,000 of average circulation in the city, as aforesaid. The

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common council may separately provide for additional advertising of any division or class of advertising in any daily newspaper which shall have made a proposal therefor, as aforesaid, and such additional advertising shall not be required to be proven as an essential to the validity of any proceeding of any nature. And if 2 or more bids shall be received for either the advertising or the publication of the proceedings for the same rate then and in such case the common council may determine which newspaper or newspapers shall be awarded such advertising or publication of proceedings, and the publisher of the newspaper or newspapers to which such advertising or publication of proceedings, or both, shall be awarded shall respectively thereupon give bond in the sum of \$2,000 for the faithful performance of the contract, which bond shall be approved by the comptroller of such city, as to the sureties therein. Provided, that in case both the advertising and the publication of proceedings shall be let to the same newspaper, then the penalty of such bond shall be \$4,000. And, whenever the successful bidder for the advertising, or for the publishing of proceedings, or for both, shall have executed the contract and bond, and such bond shall have been duly approved, the sum of \$500 deposited with the city treasurer by such bidder, in accordance with this act, shall be returned to the bidder in accordance with the provisions hereinbefore set forth. Such newspaper or newspapers shall thereupon become liable to print and publish all such ordinances, notices, council proceedings and other proceedings as are required by the charter of such city, or by resolution or ordinance of the common council to be published in a public newspaper, or which such newspaper shall have contracted to publish for the compensation specified in such proposals and contract, and shall receive no other compensation therefor; provided, however, that the common council may in its discretion reject any or all bids so made that by said common council shall be deemed exorbitant, or too high, and in case of the rejection of all bids for either advertising or publication of proceedings for such cause, it shall be the duty of the common council to direct the city clerk to invite new

proposals for such advertising or publication of proceedings, as the case may be, and the clerk shall thereafter transmit to the common council the proposals so received by him or her in the manner aforesaid. The common council shall designate the newspapers receiving the contract for such advertising and for such publication of proceedings as the proper official newspapers of such city. Provided, that if for any reason such contracts, or any of them, shall not be awarded at the time specified, then the new contract, or contracts, shall be awarded for the unexpired portion of such year and until a new contract is awarded.

(Section 4-17-2 am. Ch. 539, L. 1919. 4-17-2 am. File #980849, Oct. 9, 1998; eff. Dec. 28, 1998.)

3. COMPLIANCE. All ordinances, proceedings or other action of every kind and nature taken under, or in any manner based upon publication under the provisions of ch. 50 of the laws of 1903 or of ch. 78 of the laws of 1903 or of s. 4270a of the statutes [now s. 985.03, Wis. Stats.], shall not be construed or held to be invalidated by reason of the failure of any affidavit of publication to show qualification for or compliance with the terms of said chapters, or either of them. (Section 4-17-3 cr. Ch. 539, L. 1919.)

4-18. Disqualification of Bidder for Printing.

Whenever the lowest bidder for printing the proceedings of the common council for the said city shall appear to the comptroller of the said city and the committee of the common council on printing, to be incompetent or otherwise unreliable for doing the same, the said comptroller and committee shall report to the common council of said city a schedule of all the bids for such printing, together with their objections to accepting the bid of the lowest bidder therefor, and thereupon the common council shall have power either to order such printing to be let to the next lowest bidder who shall appear to be competent and reliable, or to order such printing to be relet. (Section 4-18 am. Ch. Ord. 71, File #53697, June 11, 1934.)

4-19. Suspension or Discontinuation of Proceedings Publication. 1. The common councils or board of aldermen of cities of the first or second class, whether operating under general or special charter, are hereby authorized, by resolution duly adopted by a majority of all the members elect of said body, to suspend or discontinue the publication of the proceedings of the common council or of the board of aldermen for such period as they may deem proper.

2. Nothing of this act shall be construed as authorizing the breaking of any contract for any such printing that may have been already entered into. Any resolution suspending the publication of proceedings shall take effect after its adoption upon the expiration of any contract now existing. (*S. 1 and 2, Ch. 98, L. 1897.*)

4-20. Proof of Publication. The city printer or printers, immediately after the publication of any notice, ordinance or resolution, which by this act is required to be published, shall file with the clerk of the city a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length and time the same has been published; and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution. (*S. 10, Subch. 3, Ch. 184, L. 1874.*)

4-21. Appropriations and Ordinances; Procedure. 1. All resolutions appropriating money, or creating any charge against any city funds, and all accounts and ordinances, shall be referred to appropriate committees and shall only be acted on by the common council at a subsequent council meeting not held on the same day.

2. If a report is made by a committee upon an ordinance or a resolution appropriating money out of, or creating any charge against any city fund, the report shall be countersigned by the city comptroller, and the comptroller shall not countersign any such report, unless there is a sufficient portion of the proper city fund unappropriated to meet the appropriation or charge.

3. When a committee shall report by resolution upon a matter referred to it by the common council, action upon such resolution may, in the discretion of the council, be taken without further committee recommendation.

4. No portion of any city fund shall be transferred to, or borrowed from, or by any

other of said funds at any time, or for any purpose whatsoever, so as to increase any fund to an amount in excess of the estimate for such fund as fixed by the common council.

5. Action upon any report of a committee made to the common council may be deferred to the next regular meeting of the common council by request of 1/5 of the members present.

6.a. The common council may take any matter described in sub. 1 from committee by a majority vote of the members of the common council in office at the time of the vote, provided the following conditions are met:

a-1. At least 30 days have passed since the matter was introduced at a common council meeting and referred to a committee.

a-2. A notice of intent to take the matter from committee has been filed with the city clerk at least 24 hours prior to the time of the common council meeting.

a-3. With respect to an ordinance, the city attorney has approved the legality and enforceability of the ordinance, providing that the following ordinances shall not be subject to this subdivision:

a-3-a. General salary, prevailing wage and positions ordinances.

a-3-b. Bus franchise ordinances.

a-3-c. Ordinances establishing width and grade of streets, alleys and sidewalks, and medial island change ordinances.

a-3-d. Official map changes and zoning district ordinances.

a-3-e. Taxi stand location ordinances.

a-3-f. Specific locations of stopping ordinances and parking ordinances.

a-3-g. Ordinances designating specific locations of certain traffic regulations.

a-4. With respect to any matter appropriating money out of, or creating any charge against any city fund, the city comptroller has indicated in writing that there is a sufficient portion of the proper city fund unappropriated to meet the appropriation or charge.

b. If a matter is taken from committee pursuant to par. a, the common council may proceed to consider and take action on the matter, providing the committee had previously held a public hearing on the matter. If a public hearing has not been held previously by the committee, the common

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council may hold a public hearing on the file, and then proceed to take action, or may refer the file to the committee from which it was taken, or to another committee, with a directive that a public hearing be held on the file at the next regularly scheduled meeting of the committee.

(HISTORY: Section 4-21 am. Ch. 310, File #64-4089, Apr. 6, 1965.

4-21 rc. File #970963, June 16, 1998; eff. Sept. 1, 1998.)

4-23. Mayoral Approval of Council Actions.

Every act, ordinance, by-law, regulation, resolution or appropriation, which has been passed by the common council, before it shall take effect, and within 5 days after its passage, shall be certified by the city clerk, and presented to the mayor for approval. If the mayor approves, he or she shall sign it. If not, the mayor shall return it within 7 days, Saturdays, Sundays and holidays to be excluded, with objections stated in writing, to the city clerk. The clerk shall submit the objections to the common council no later than their next regular meeting thereafter. The council shall enter the objections upon the record of their proceedings, and shall proceed to reconsider the matter. Resolutions relating to the city's position on proposed state or federal legislation may be approved in whole or in part by the mayor, and the part approved shall take effect, and the part objected to shall be returned in the same manner as provided for other resolutions adopted by the common council. If, after reconsideration, 2/3 of the members at the time of the vote, or 3/4 of the members at the time of the vote if such majority was necessary as specified by law to originally pass the measure, should vote to pass the act, ordinance, by-law, regulation, resolution or appropriation, it shall take effect and be in force as an act or law of the city. Otherwise it shall be null and void. All such votes, after receiving the objections of the mayor, shall be taken by yeas and nays, and entered upon the journal of proceedings of the common council. If the mayor shall not return any act, ordinance, by-law, resolution or appropriation, after presentation by the city clerk, within 7 days, Saturdays, Sundays and holidays to be excluded, it shall take effect in the same manner as if the mayor had signed it.

(HISTORY: Section 4-23 am. Ch. Ord. 557, File #85-1776, Mar. 25, 1986; eff. June 10, 1986.

4-23 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. Apr. 20, 1987.

4-23 am. File #881728, Jan. 24, 1989; eff. April 11, 1989.)

4-24. Public Utility Franchises. 1. Any person, copartnership or association, including public utility corporations, whether presently operating under a franchise, privilege or permit either from the city of Milwaukee or the state of Wisconsin, or not, desiring to manufacture, supply or furnish, by means of pipes or mains, directly or indirectly, natural gas or a mixed gas containing natural gas, to consumers within the city, or to change over from one type of gas to another, shall first make an application in writing to the common council for a permit to occupy streets, highways or other public places within the city, setting forth the standards, quality and character of such service, the approximate cost to the gas users within the city, the heating value of the gas to be furnished, the cost to all classes of users of any parts or equipment or the cost of any changeover that will be required within the city in detail, and such other information in the premises which the said common council or a committee thereof may require.

2. Upon receiving any such application the common council shall order a public hearing either before it or a committee thereof.

3. The applicant shall furnish any additional information or data that the common council or such committee may require in the premises.

4. The common council may grant or refuse such permit or franchise, or may, in its discretion, refer the same to an advisory referendum vote for approval or disapproval by the voters of the city on a special ballot to be approved therefor by the common council at such time as the common council may direct. The common council shall not grant a permit if it finds the granting of a permit is not in the best interest of the public health, safety and welfare.

5. Nothing herein contained shall be interpreted as relieving the applicant from complying with any provision of the Wisconsin statutes relating to public utilities.

6. Any person, firm or corporation violating any of the provisions of this section shall, upon a conviction thereof, be punished by a fine not to exceed \$500 for each offense, and each day of any violation shall be deemed to constitute a separate offense.

7. Should any section, or any provision of any section of the foregoing 6 sections be found or held invalid, the remaining sections and the remaining provisions of each of said sections shall be deemed valid and of full force and effect. *(Section 4-24 cr., Ch. Ord. 113, File #70494, Feb. 10, 1941.)*

4-25. Common Council Member to Hold No Other City Office. No member of the common council shall hold any other city office, and if any member of the common council shall, while a member, accept any other elective public office, he shall be deemed to have vacated his office as a member of the common council. *(S. 1, Ch. 55, L. 1887.)*

4-26. Vote on Matters in which Member has a Personal Interest. No member of the common council shall vote upon any question, matter or resolution in which he may be directly or indirectly interested. *(S. 2, Subch. 19, Ch. 184, L. 1874.)*

4-27. Interest in City Contracts. No member of the common council shall be a party to or interested in any job or contract with the city, and any contract in which any such member may be so interested shall be null and void, and in case any money shall have been paid in any such contract, the common council may sue for and recover the amount so paid, from the parties to such contract, and from the member of the council interested in the same. *(Section 4-27 am Ch. Ord. 323, File #62-2554-d, Oct. 21, 1966.)*

4-28. Malfeasance. 1. MAJORITY VOTE. A majority of all the members elect of the common council shall have power to dismiss from office, for malfeasance in office in said city, any person elected or appointed to office in said city, except justices of the peace. And the common council shall provide by ordinance the manner of hearing and disposing of complaints against such officers. *(S. 7, Subch. 19, Ch. 184, L. 1874.)*

2. INVESTIGATION. Whenever any charges of official misconduct shall be preferred against any member of the common council of the city of Milwaukee, or any officer of said city, the common council shall appoint a committee to investigate such charges; and it shall be the duty of the committee, as soon as

practicable after their appointment, to investigate the matter of any charges which may have been so preferred, and to report the results of their investigation to the said common council, and in case such committee shall deem it necessary or proper for the purposes of their investigation, they may examine witnesses on oath in relation to any such charges; and the several members of such committee are hereby authorized and empowered to administer oaths to witnesses to be examined, for the purposes of such examination. *(S. 8, Subch. 19, Ch. 184, L. 1874.)*

3. SUBPOENAS. Subpoenas may be issued for the purpose of procuring attendance of witnesses before any committee appointed pursuant to the preceding section *(S. 8, subch. 19, ch. 184, L. 1874.)*. Each subpoena shall state when and where, and before whom, the witness is required to appear and testify, and may require such attendance forthwith, or on a future day named, and the production of books, records, documents and papers therein to be designated. All such subpoenas shall be signed by the city clerk of said city, and shall be issued under the seal of said city, and may be served in the same manner, and shall have the same force and effect as subpoenas issued out of the circuit court. Any willful or corrupt false swearing by any witness or person giving testimony before such committee or any member thereof, or making depositions to any material fact relating to the matter under investigation before such committee shall be deemed guilty of perjury, and shall be punished as such in the manner provided by law. The provisions of law in respect to the attachment of witnesses subpoenaed before justices of the peace and compelling the attendance of such witnesses to appear and testify before them, are hereby applied to the case of witnesses subpoenaed before such committee, and such committee may exercise the powers of arrest, fine and imprisonment for contempt vested in the court in such cases. Writs of attachment and commitment for contempt shall be signed by the chairman of such committee. *(S. 9, Subch. 19, Ch. 184, L. 1874.)*

4-29. Publication of Laws. 1. The common council of the city of Milwaukee are hereby authorized to cause this act [ch. 184, L. 1874], together with any other acts or parts of acts of

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the legislature of Wisconsin relating to it, affecting said city, and also any of the ordinances, by-laws, rules and regulations of said city or any of its departments, and any other acts, resolutions, contracts or other documents relating to or affecting said city, to be printed and published in book form, and such book shall be deemed prima facie evidence of the contents and passage, and shall be a sufficient publication of all such acts, ordinances, by-laws, rules, resolutions and regulations, printed copies of the ordinances, by-laws, resolutions and regulations of the city of Milwaukee in any newspaper, book, pamphlet or other form purporting to be published by authority of the common council of said city shall be admitted in all courts of this state as presumptive evidence of such ordinances, laws, resolutions and regulations, and of the due passage, publication and recording thereof. (S. 1, Ch. 30, L. 1889.)

2. This act [ch. 184, L. 1874] shall not invalidate any legal act done by the common council of the city of Milwaukee, or by its officers, nor divest their successors under this act of any rights of property or otherwise, or of any liability which may have accrued to, or been created by said corporation prior to the passage of this act. (S. 16, Subch. 20, Ch. 184, L. 1874.)

4-30. City Reports. The common council of any city of the first class, however incorporated, is hereby empowered to publish reports of the city's activities for any year or for successive years or of the work and activities of any department, bureau, board or commission of the city government of such city or of other public matters. Any such report may include summaries or detailed statements of the work of any department, bureau, board or commission of the city government in such form as the common council deems expedient including the departments, bureaus, boards or commissions which are financed by an independent tax, provided that such common council may authorize any department, bureau, board or commission to publish a separate report in addition to the report published by the common council. (S. 1, Ch. 225, L. 1923.)

4-31. Discharge of Judgment or Penalty. No penalty or judgment recovered in favor of the city shall be remitted or discharged without

payment, and no resolution for a stay of prosecution for a violation of a city ordinance shall be passed, except by an affirmative vote in either case of 2/3 of the members of the common council at the time of the vote.

(HISTORY: S. 3, Subch. 20, Ch. 184, L. 1874.

4-31 am Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. Apr. 20, 1987)

4-32. Claims. Whenever a claim against the city shall be settled by the common council, the reason for such action must be stated in writing. Whenever such settlement is made upon the recommendation of the city attorney or his assistant, or other legal officer, the reason therefor must be stated in writing, signed and filed with the city clerk, and published with the proceedings of the common council. (S. 925-121a, Stats. 1907; Section 4-32 am, File #001619, March 20, 2001; eff. June 5, 2001.)

4-33. Restrictions on Wooden Buildings. The common council, for the purpose of guarding against the calamities of fire, shall have power, and it shall be their duty, to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire proof, shall not be erected, placed or repaired; and to direct that all and any buildings within the limits prescribed, shall be made and constructed of fire proof materials; and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty percent of the value thereof, and to prescribe the manner of ascertaining such damage. (S. 1, Subch. 14, Ch. 184, L. 1874.)

4-34. Prevention of Fires. 1. AUTHORITY. The common council shall have power:

a. To prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stove pipes, ovens, boilers and similar apparatus used in and about any building, and to cause the same to be removed, or placed in a safe and secure condition.

b. To prevent the deposit of ashes in unsafe places.

c. To regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires.

d. To regulate and prevent the use of fire works or fire arms.

e. To authorize the mayor, aldermen and other officers of the city to keep away from the vicinity of any fire persons not authorized or necessary, and to compel all bystanders to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat; and generally to establish such regulations for the prevention and extinguishment of fires, and for the safety and protection of persons from injury thereby, as the common council may deem expedient.

2. ENFORCEMENT. Whenever any person shall refuse to obey any lawful order of the mayor or of any engineer, alderman or policeman at any fire, it shall be lawful for the officer giving such order, to arrest, or to direct orally any policeman, constable, watchman or any citizen to arrest such person, or to confine him temporarily in any safe place until such fires shall be extinguished; and in the same manner such officers, or any of them, may arrest or direct the arrest or confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding \$15.

(HISTORY: Section 4-34-1 am. Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.

Text of current 4-34-2 originally cr. as S. 9, Subch. 14, Ch. 184, L. 1874.)

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