

CHAPTER.....

AN ACT relating to cities; requiring the City Attorneys of the cities of Reno and Sparks to be appointed rather than elected; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that the position of City Attorney in the cities of Reno and Sparks is an elected office. (Reno City Charter §§ 1.060, 5.010; Sparks City Charter §§ 1.060, 5.010) **Sections 3 and 11** of this bill require the city councils of Reno and Sparks to appoint the City Attorney. **Sections 6 and 13** of this bill provide that the City Attorney serves under the direction and supervision of the City Council and may be removed by a majority vote of the City Council at any time. **Sections 1, 2, 7-10 and 14-16** of this bill remove provisions relating to the election of the City Attorney. **Sections 4, 5 and 12** of this bill make conforming changes.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 1.060 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 373, Statutes of Nevada 1979, at page 644, is hereby amended to read as follows:

Sec. 1.060 Elective offices.

1. The elective officers of the City consist of:

(a) A Mayor.

(b) Six Council Members.

(c) One Municipal Judge and as many additional judges as the City Council deems necessary.

~~+(d) A City Attorney.~~

2. Such officers shall be elected as provided by this Charter.

Sec. 2. Section 1.070 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 163, Statutes of Nevada 2015, at page 767, is hereby amended to read as follows:

Sec. 1.070 Elective offices: Vacancies.

1. Except as otherwise provided in this section, a vacancy in the City Council or in the office of ~~City Attorney~~ ~~or~~ Municipal Judge must be filled by a majority vote of the members of the City Council within 30 days after the occurrence of the vacancy. A person may be selected to fill a



prospective vacancy in the City Council before the vacancy occurs. In filling a prospective vacancy, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. The appointee must have the same qualifications as are required of the elective official. The appointee shall serve until the next general municipal election and until his or her successor is elected and qualified.

2. If a prospective vacancy or vacancy occurs in an office of City Council, in lieu of appointment, the City Council may, by resolution, declare a special election to fill the vacancy for the remainder of the unexpired term. The resolution declaring a special election must be adopted within 30 days after the occurrence of the vacancy and must state the date set by the City Council for the special election. In the case of a prospective vacancy, the Council may adopt the resolution before the vacancy occurs, but the special election may not be held until after the vacancy occurs. The special election must be conducted in accordance with the provisions of the resolution declaring the special election and section 5.030 of this Charter. A person elected to fill a vacancy at a special election must have the same qualifications as are required of the elected official.

Sec. 3. Section 1.090 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 163, Statutes of Nevada 2015, at page 767, is hereby amended to read as follows:

Sec. 1.090 Appointive officers and appointive employees.

1. The City Council shall provide for the appointment of a City Manager, ~~and~~ a City Clerk ~~and~~ *and a City Attorney.*

2. The City Manager shall appoint a Chief of Police and a Fire Chief, subject to ratification by the City Council. If a person so nominated is not confirmed, the City Manager shall continue to submit nominations until a nominee is confirmed.

3. The following are appointive officers:

(a) The City Manager, Assistant City Managers, Chief of Staff of the City Manager, Executive Assistant to the City Manager, Chief of Police, Assistant Chief of Police, Fire Chief, the heads of each department and the assistant heads of each department.



(b) The City Clerk, Chief Deputy City Clerk and Manager of Record Systems.

(c) ~~Every~~ *The City Attorney and every* Chief Deputy City Attorney.

(d) The Deputy City Assessor, if the City Council appoints a person as the Deputy City Assessor pursuant to section 3.080.

(e) The Deputy City Treasurer, if the City Treasurer appoints a person other than the City Clerk to be Deputy City Treasurer pursuant to section 3.090.

4. Except as otherwise provided in this subsection, the City Council may establish such other appointive offices and appointive positions as it may deem necessary for the operation of the City by designating the office or position and the minimum qualifications therefor by ordinance. The number of appointive positions established by the City Council pursuant to this subsection must not exceed the greater of:

(a) Forty full-time equivalent appointive positions; or

(b) Four percent of the total number of:

(1) Appointive officers described in subsection 3; and

(2) All full-time equivalent positions in the Civil

Service.

5. Appointive employees:

(a) Are not appointive officers but regularly assist an appointive officer;

(b) Have duties that consist of administrative work directly related to management policies; and

(c) Have positions that require them customarily to exercise discretion and independent judgment.

6. No person who is an employee of the City's:

(a) Police Department is an appointive officer or appointive employee, other than the Chief of Police and the Assistant Chief of Police.

(b) Fire Department is an appointive officer or appointive employee, other than the Fire Chief.

7. On or before June 30 of each fiscal year, the City Manager shall prepare and file with the City Clerk a document that sets forth the organization of every department and other office of the City. The document must include, without limitation, a description of the job responsibilities of each appointive officer and appointive employee.



Sec. 4. Section 1.100 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 163, Statutes of Nevada 2015, at page 769, is hereby amended to read as follows:

Sec. 1.100 Appointive officers and appointive employees: Miscellaneous provisions.

1. All appointive officers and appointive employees, except the *City Attorney and the professional and paraprofessional legal staff and the clerical staff appointed by the City Attorney pursuant to section 3.060 and the* City Clerk and his or her deputy, shall perform such duties as are designated by the City Manager.

2. Any employee of the City holding a Civil Service rating under the City who is appointed to any appointive office or appointive position does not lose his or her Civil Service rating while serving in that appointive office or appointive position.

3. The City Council may require from all other officers and employees of the City constituted or appointed under this Charter, except the Mayor and Council Members, sufficient security for the faithful and honest performance of their respective duties.

Sec. 5. Section 1.110 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 163, Statutes of Nevada 2015, at page 769, is hereby amended to read as follows:

Sec. 1.110 Appointive officers and appointive employees: Duties; salary; benefits.

1. All appointive officers and appointive employees of the City, including those appointed by the City Council, except:

(a) The City Manager;

(b) The City Clerk, Chief Deputy City Clerk and Manager of Record Systems appointed by the City Clerk pursuant to section 3.040;

(c) The *City Attorney and the* professional and paraprofessional legal staff and the clerical staff appointed by the City Attorney pursuant to section 3.060; and

(d) The members of the City Board of Health and the City Health Officer, if the City administers the operations of the Board of Health,



↳ shall perform their duties under the direction of the City Manager or as designated by the City Council through the City Manager.

2. All appointive officers and appointive employees of the City are entitled to the salary designated by the City Council through the adoption of a resolution establishing the salary ranges applicable to each appointive office and appointive position.

3. All appointive officers and appointive employees are entitled to the employment benefits established by the applicable law of the State and to such other benefits as the City Council provides by resolution.

Sec. 6. Section 3.060 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 163, Statutes of Nevada 2015, at page 772, is hereby amended to read as follows:

Sec. 3.060 City Attorney: Qualifications; duties; salary.

1. The City Attorney must be a duly licensed member of the State Bar of Nevada and a qualified elector within the City. ~~Once elected, he or she shall hold office for a term of 4 years and until his or her successor is duly elected and qualified.~~

2. The City Attorney is the Legal Officer of the City and shall:

- (a) Perform such duties as are designated by ordinance;
- (b) Be present at all meetings of the City Council;
- (c) Be counsel for the Commission;
- (d) Devote his or her full time to the duties of the office;

and

- (e) Not engage in the private practice of law.

3. The City Attorney is entitled to receive a salary as fixed by resolution of the City Council.

4. *The City Attorney is under the direction and supervision of the City Council.*

5. *The City Attorney serves at the pleasure of the City Council and may be removed by an affirmative vote of a majority of the entire membership of the City Council at any time.*

6. As he or she requires in the discharge of the duties of his or her office, the City Attorney may:

- (a) Appoint and remove any professional and paraprofessional legal staff, including, without limitation,



attorneys, paralegals, investigators, an office administrator and an executive assistant. Professional and paraprofessional legal staff must not be Civil Service employees.

(b) Appoint and remove clerical staff, including, without limitation, management assistants, legal secretaries and advocates. Clerical staff must not be Civil Service employees.

~~5.1~~ 7. The Council may appropriate such an amount of money as it deems proper to compensate the professional and paraprofessional legal staff and clerical staff appointed by the City Attorney pursuant to subsection ~~4.1~~ 6.

~~6.1~~ 8. Any attorney or paralegal who is employed for more than 20 hours per week by the City Attorney shall not engage in the private practice of law.

Sec. 7. Section 5.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 349, Statutes of Nevada 2013, at page 1828, is hereby amended to read as follows:

Sec. 5.010 General elections.

1. On the date fixed by the election laws of the State for the statewide general election in November 2002, and at each successive interval of 6 years, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge, who holds office for a term of 6 years and until his or her successor has been elected and qualified.

2. On the date fixed by the election laws of the State for the statewide general election in November 2002, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, a Mayor ~~and~~ **and** Council Members from the second and fourth wards, ~~and a City Attorney,~~ all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

3. On the date fixed by the election laws of the State for the statewide general election in November 2004, and at each successive interval of 6 years, there must be elected by the qualified voters of the City, at the general election, one or more Municipal Judges, other than the Municipal Judge referred to in subsection 1, all of whom hold office for a term of 6 years and until their successors have been elected and qualified.

4. On the date fixed by the election laws of the State for the statewide general election in November 2004, and at each



successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, Council Members from the first, third and fifth wards and one Council Member at large, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

Sec. 8. Section 5.020 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 349, Statutes of Nevada 2013, at page 1829, is hereby amended to read as follows:

Sec. 5.020 Primary elections; declaration of candidacy.

1. A candidate for any office to be voted for at an election must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be deposited to the credit of the General Fund of the City.

2. If for any general election, there are three or more candidates for any office to be filled at that election, a primary election for any such office must be held on the date fixed by the election laws of the State for statewide elections, at which time there must be nominated candidates for the office to be voted for at the next general election. If for any general election there are two or fewer candidates for any office to be filled at that election, their names must not be placed on the ballot for the primary election but must be placed on the ballot for the general election. The general election must be held on the date fixed by the election laws of the State for the statewide general election.

3. In the primary election:

(a) The names of the two candidates for Municipal Judge ~~1, City Attorney~~ or a particular City Council seat, as the case may be, who receive the highest number of votes must be placed on the ballot for the general election.

(b) Candidates for Council Member who represent a specific ward must be voted upon only by the registered voters of that ward.

(c) Candidates for Mayor and Council Member at large must be voted upon by all registered voters of the City.

4. The Mayor and all Council Members must be voted upon by all registered voters of the City at the general election.



Sec. 9. Section 1.060 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 394, is hereby amended to read as follows:

Sec. 1.060 Elective officers: Qualifications; salaries.

1. The elective officers of the City consist of:

(a) A Mayor.

(b) Five members of the Council.

(c) ~~A City Attorney.~~

~~—(d)—~~ Municipal Judges, the number to be determined pursuant to section 4.010.

2. All elective officers of the City must be:

(a) Bona fide residents of the City for at least 30 days immediately preceding the last day for filing a declaration of candidacy for such an office.

(b) Residents of the City during their term of office, and, in the case of a member of the Council, a resident of the ward the member represents.

(c) Registered voters within the City.

3. No person may be elected or appointed as a member of the Council who was not an actual bona fide resident of the ward to be represented by him or her for a period of at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, or, in the case of appointment, 30 days immediately preceding the day the office became vacant.

4. ~~The City Attorney must be a licensed member of the State Bar of Nevada.~~

~~—5.—~~ Each elective officer is entitled to receive a salary in an amount fixed by the City Council. At any time before January 1 of the year in which a general election is held, the City Council shall enact an ordinance fixing the initial salary for each elective office for the term beginning on the first Monday following that election. This ordinance may not be amended to increase or decrease the salary for the office of Mayor ~~or~~ City Council Member ~~for City Attorney~~ during the term. If the City Council fails to enact such an ordinance before January 1 of the election year, the succeeding elective officers are entitled to receive the same salaries as their respective predecessors.



Sec. 10. Section 1.070 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 32, Statutes of Nevada 2011, at page 132, is hereby amended to read as follows:

Sec. 1.070 Elective offices; vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the City Council or in the office of ~~City Attorney or~~ Municipal Judge must be filled by appointment of the Mayor, subject to confirmation by the City Council, within 30 days after the occurrence of the vacancy. A person may be selected to fill a prospective vacancy in the City Council before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. If the majority of the Council is unable or refuses for any reason to confirm any appointment made by the Mayor within 30 days after the vacancy occurs, the City Council shall present to the Mayor the names of two qualified persons to fill the vacancy. The Mayor shall, within 15 days after the presentation, select one of the two qualified persons to fill the vacancy. The appointee must have the same qualifications required of the elected official.

2. A vacancy in the office of the Mayor must be filled by the Mayor pro tempore. The resulting vacancy in the City Council must be filled as provided in subsection 1.

3. The appointee or Mayor pro tempore, in the case of a vacancy in the office of Mayor, shall serve until his or her successor is elected and qualified at the next general election to serve the remainder of the unexpired term.

Sec. 11. Section 1.080 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 39, Statutes of Nevada 2015, at page 187, is hereby amended to read as follows:

Sec. 1.080 Appointive positions.

1. *The City Council shall appoint a City Attorney and fix his or her salary by resolution.*

2. The Mayor of the City shall appoint a City Manager, subject to confirmation by the City Council.

~~2-~~ 3. Except as otherwise provided in this Charter, the City Manager shall appoint the heads of each department.

~~3-~~ 4. Except as otherwise provided in this Charter, the City Manager or the designee of the City Manager may



appoint any employee employed in a bona fide executive, administrative or professional capacity. This subsection does not authorize the City Manager or the designee of the City Manager to appoint any employee of the Municipal Court. As used in this subsection:

(a) "Employee employed in a bona fide executive capacity" has the meaning ascribed to it in 29 C.F.R. § 541.100.

(b) "Employee employed in a bona fide administrative capacity" has the meaning ascribed to it in 29 C.F.R. § 541.200.

(c) "Employee employed in a bona fide professional capacity" has the meaning ascribed to it in 29 C.F.R. § 541.300.

~~4~~ 5. The City Manager shall create and revise as necessary a document which:

(a) Describes the organization of all departments, divisions and offices of the City; and

(b) Sets forth all appointive positions of the City.

Sec. 12. Section 3.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 39, Statutes of Nevada 2015, at page 188, is hereby amended to read as follows:

Sec. 3.020 City Manager: Duties; residence.

1. The City Manager is responsible to the Council for the efficient administration of all the affairs of the City. He or she shall:

(a) Exercise a careful supervision of the City's general affairs.

(b) Enforce all laws and all acts of the Council which are subject to enforcement by him or her or by persons under his or her supervision.

(c) Except as otherwise provided in this Charter, and to the extent authorized by law, exercise control over all departments of the City government, its appointed officers and its employees, other than the Municipal Court and its officers and employees ~~and~~ *and the City Attorney and any assistant city attorneys appointed by the City Attorney.*

(d) Attend all meetings of the Council and its committees, except when the Council is considering his or her removal, with the right to take part in discussions, but without power to vote.



(e) Recommend to the Council the adoption of such measures and bills as he or she considers necessary or expedient.

(f) Make investigations into:

- (1) The affairs of the City;
- (2) Except as otherwise provided in subsection 3, any department or division of the City;
- (3) Any contract; or
- (4) The proper performance of any obligation owed to the City.

(g) Prepare and submit to the Council the annual budget.

(h) Keep the Council fully informed as to the financial condition and needs of the City.

(i) Submit to the Council, at least once each month, a summary of all claims and bills approved for payment by him or her.

(j) Not engage in any other business or occupation without the approval of the City Council.

(k) Perform such other duties as prescribed by this Charter or be required by ordinance or resolution of the Council.

2. The City Manager must establish his or her residence within the City within 90 days after his or her appointment, unless the period is extended by the Council. He or she must reside in the City during his or her term of office.

3. This section does not authorize the City Manager to make investigations into the Municipal Court, except pursuant to an agreement with the Municipal Court.

Sec. 13. Section 3.050 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 129, Statutes of Nevada 1993, at page 231, is hereby amended to read as follows:

Sec. 3.050 City Attorney: Duties; Assistant City Attorneys.

1. *The City Attorney must be a licensed member of the State Bar of Nevada.*

2. The City Attorney shall:

- (a) Be the Legal Officer of the City.
- (b) Represent the City and any officer or employee or former officer or employee of the City, for any act arising out of his or her employment or duties, in any action or proceeding in which the City or such officer or employee is concerned or is a party.



(c) Perform such duties as may be designated by ordinance.

(d) Attend all regular, special and emergency meetings of the City Council, and may attend executive sessions concerning public officers.

(e) Approve any contract made by and any bond or security given to the City endorsing his or her approval in writing on the document.

(f) Prepare all proposed ordinances and review all resolutions and amendments to the ordinances or resolutions.

(g) Not engage in any other business or occupation nor in the private practice of law without the approval of the City Council.

~~2-1~~ **3. *The City Attorney is under the general direction and supervision of the City Council.***

4. *The City Attorney serves at the pleasure of the City Council and may be removed by an affirmative vote of a majority of the entire membership of the City Council at any time.*

5. The City Attorney may appoint and remove or discharge assistant city attorneys pursuant to ordinances adopted relating thereto. The City Council may appropriate the money it considers proper to compensate such assistants.

~~3-1~~ **6.** An Assistant City Attorney who is removed from his or her position by the City Attorney has the right of appeal to the Mayor and City Council and may demand a hearing before the City Council. The demand must be made within 10 days after the removal. The decision of the City Council upon the hearing is final.

Sec. 14. Section 5.010 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 52, Statutes of Nevada 2005, at page 104, is hereby amended to read as follows:

Sec. 5.010 General elections.

1. On the Tuesday after the first Monday in June 2001, there must be elected by the registered voters of the City, at a general municipal election, Council Members to represent the first, third and fifth wards ~~1-1~~ **and** a Municipal Judge for Department 1, ~~and a City Attorney,~~ all of whom hold office until their successors have been elected and qualified, pursuant to subsection 3 or 4.

2. On the Tuesday after the first Monday in June 2003, there must be elected by the registered voters of the City, at a



general municipal election, Council Members to represent the second and fourth wards, a Mayor and a Municipal Judge for Department 2, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 5 or 6.

3. On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected by the registered voters of the City, at the general election, Council Members to represent the first, third and fifth wards, ~~and a City Attorney,~~ all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

4. On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 1, who holds office for a term of 4 years and until his or her successor has been elected and qualified, pursuant to subsection 7.

5. On the Tuesday after the first Monday in November 2006, and at each successive interval of 4 years, there must be elected by the registered voters of the City, at the general election, Council Members to represent the second and fourth wards and a Mayor, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

6. On the Tuesday after the first Monday in November 2006, and at each successive interval of 6 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 2, who holds office for a term of 6 years and until his or her successor has been elected and qualified.

7. On the Tuesday after the first Monday in November 2008, and at each successive interval of 6 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 1, who holds office for a term of 6 years and until his or her successor has been elected and qualified.

8. All candidates at an election that is held pursuant to this section must be voted upon by the registered voters of the City at large.



Sec. 15. Section 5.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 398, is hereby amended to read as follows:

Sec. 5.020 Primary elections.

1. Candidates for the offices of Mayor ~~+~~, ~~City Attorney~~ and Municipal Judge must be voted upon by the registered voters of the City at large. Candidates to represent a ward as a member of the City Council must be voted upon by the registered voters of the ward to be represented by them.

2. The names of the two candidates for Mayor ~~+~~, ~~City Attorney~~ and Municipal Judge and the names of the two candidates to represent the ward as a member of the City Council from each ward who receive the highest number of votes at the primary election must be placed on the ballot for the general election.

Sec. 16. Section 9.190 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 39, Statutes of Nevada 2015, at page 190, is hereby amended to read as follows:

Sec. 9.190 Applicability. This article applies to all employees of the City of Sparks, except:

1. Elected officers of the City;
2. The City Manager;
3. *The City Attorney*;
4. Persons in appointive positions who are appointed by the City Manager pursuant to section 1.080;
- ~~4+~~ 5. Temporary employees; and
- ~~5+~~ 6. Officers and employees of the Municipal Court.

Sec. 17. Notwithstanding the amendatory provisions of this act, the term of office of:

1. The person who holds the office of City Attorney of the City of Reno on June 30, 2017, does not expire until that term would ordinarily expire pursuant to provisions of the Charter of the City of Reno, as the Charter existed on June 30, 2017.

2. The person who holds the office of City Attorney of the City of Sparks on June 30, 2017, does not expire until that term would ordinarily expire pursuant to provisions of the Charter of the City of Sparks, as the Charter existed on June 30, 2017.

Sec. 18. This act becomes effective on July 1, 2017.



