

City of Waukesha, Wisconsin

Charter Ordinance

2025 – _____

**A Charter Ordinance Making the Office of City Attorney Appointed Rather than Elected,
Amending Municipal Code §2.01, and Creating Municipal Code §2.15**

Whereas the position of City Attorney is presently an elected position with a four-year term, pursuant to Charter Ordinance No. 53-87 and Municipal Code §2.01(1); and

Whereas the Common Council finds that it is in the best interests of the City of Waukesha that the position of City Attorney be appointed rather than elected;

Now, therefore, pursuant to Wis. Stat. §62.09(3)(b)6 and §66.0101(2)(a), the Common Council of the City of Waukesha do ordain as follows:

Section 1. The City of Waukesha elects not to be governed by Wis. Stat. §62.09(3)(b)4 with respect to the manner of choosing the City Attorney, and instead elects to change the manner of choosing the City Attorney to an appointment by the Common Council with an indefinite term pursuant to Wis. Stat. §62.09(3)(b)3.

Section 2. This change shall be effective upon the expiration of the current term of the elected City Attorney, on April 30, 2026.

Section 3. All portions of Charter Ordinance No. 53-87 conflicting with this ordinance are repealed.

Section 4. Municipal Code §2.01 is amended to read in its entirety as the attached Exhibit 1.

Section 5. Municipal Code §2.15 is created to read in its entirety as the attached Exhibit 2.

Section 6. This is a Charter Ordinance and shall take effect 60 days after its passage and publication, unless a petition meeting the requirements of Wisconsin Statutes §66.0101(5) is filed and a referendum is held, in which case this Charter Ordinance shall not take effect unless it is approved by a majority of the electors voting in the referendum.

Passed the _____ day of _____, 2025.

Shawn N. Reilly, Mayor

Katie Panella, City Clerk

Exhibit 1

2.01 City Officials.

(1) Elected Officials.

Official	How Elected	Term
Common Council Member	2nd, 3rd, 6th, 7th, 10th and 13th Districts, commencing in 1990 every 3rd year after; 1st, 4th, 5th, 8th, 9th, 11th, 12th, 14th, 15th Districts, commencing in 1989 and every 3rd year after	3 years
Mayor	1990 and every 4 years thereafter	4 years
Municipal Judge	1990 and every 4 years thereafter	4 years

(2) Appointed Officials.

Official	How Appointed	Term
Assessor	Mayor, subj. to conf. by Council	Indefinite
Cemetery Director	City Administrator, subj. to conf. by Council	Indefinite
Chief of Police	Board of Police and Fire Commissioners	Indefinite
City Administrator	Ad Hoc Committee, subj. to conf. by Council	Indefinite
City Attorney	Common Council	Indefinite
Clerk	Mayor, subj. to conf. by Council	Indefinite
Director of Community Development	City Administrator, subj. to conf. by Council	Indefinite
Emergency Government Director	Shall be the City Administrator	Indefinite
Finance Director	City Administrator, subj. to conf. by Council	Indefinite
Fire Chief	Board of Police and Fire Commissioners	Indefinite
Housing Authority Executive Director	Housing Authority Commission	Indefinite
Director of Human Resources	City Administrator, subj. to conf. by Council	Indefinite

Exhibit 1

Information Technology Director	City Administrator, subj. to conf. by Council	Indefinite
Library Executive Director	Library Board	Indefinite
Director of Parks, Recreation and Forestry	City Administrator, subj. to conf. by Council	Indefinite
Director of Public Works	City Administrator, subj. to conf. by Council	Indefinite
Transit Manager	Dir. of Public Works, subj. to conf. by Council	Indefinite
Treasurer	Mayor, subj. to conf. by Council	Indefinite
Water Utility Manager	Water Utility Commission	Indefinite
Weed Commissioner	Mayor	One year

(3) Annual Evaluations. Each of the appointed officials listed in subsection (2), above, shall have their performance evaluated annually by the City Administrator and their evaluations may be shared with the City Council in closed session at its option.

History

Subs. (1) amended by ordinances 38-92, 61-01, and 6-10

Subs. (1) amended by Charter Ordinances 47-87, 48-87, and 53-87

Subs. (2) amended by ordinances 4-06, 6-10, and 23-14

Subs. (2) Assessor amended by Charter Ordinance 26-09

Subs. (3) created by ordinance 23-14

Amended by Ord. 2024-14 Separates offices of Clerk and Treasurer on 6/4/2024

Exhibit 2

2. 15 City Attorney.

- (1) Selection and Appointment.** The City Attorney shall be appointed by the Common Council, to serve an indefinite term. At any time there is a vacancy in the office of City Attorney, a nominee for the office shall be selected by a selection committee, composed of the chairpersons of the standing committees of the Council and the Mayor, and over which the Mayor shall preside. The selection committee shall negotiate the basic terms of the nominee's employment, and the final terms shall contain such additional provisions as are determined by the Human Resources Department. The nominee and the proposed terms of employment shall be presented to the Council, which shall then confirm or reject the nominee and the proposed terms of the nominee's employment. Confirmation shall be by simple majority vote. If the Council does not confirm either the nominee or the proposed terms of employment, then the selection committee shall either begin searching for another nominee or attempt to re-negotiate the terms of employment to which the Council objects, and shall continue until a nominee and terms have been confirmed by the Council. The selection and appointment of the City Attorney shall be based solely on merit and qualifications for the position, including education, training, general fitness for office, and experience in municipal law.
- (2) Duties and Responsibilities.**

 - (a) General.** The City Attorney shall perform those duties listed in Wis. Stat. §62.09(12) and such other duties as the Common Council may prescribe from time to time. The City Attorney shall be responsible for the conduct of all City legal matters, and shall serve as legal advisor to the Council, the Mayor, City officials, and all City departments. It shall be the duty of the City Attorney to call to the attention of the Mayor and Common Council all matters of law affecting the City.
 - (b) Municipal Court Prosecutions.** The City Attorney shall be in charge of the prosecution of all cases arising out of the violation of the provisions of the Municipal Code. The City Attorney shall have authority to enter into stipulations and settlements of such matters as he or she deems in the City's best interests.
 - (c) Representation in Courts and Other Tribunals.** The City Attorney shall represent the City in matters in which the municipality is interested before any court or tribunal.
 - (d) Authority to Bind City in Certain Matters.** The City Attorney is authorized to execute on behalf of the City waivers and releases in settlement of claims and lawsuits, stipulations and settlement agreements, and other such procedural instruments, provided they do not create a financial obligation on the City.
 - (e) Outside Counsel.** The City Attorney may engage outside counsel when he or she deems it appropriate, and may execute engagement letters on the City's behalf. No outside counsel may be engaged by the City, any City official, or any City department without the City Attorney's approval.

Exhibit 2

- (f) **Revisor of Ordinances.** The City Attorney shall be the official revisor of the Municipal Code of Ordinances. No ordinance shall be enacted by the Common Council unless such ordinance is first referred to the City Attorney for a study respecting form and legality. The City Attorney is authorized to make editorial changes, correct scrivener's errors, correct grammar mistakes, renumber sections and subdivisions, and otherwise revise the Municipal Code when the changes are not substantive in nature and do not alter the Common Council's intent.
- (g) **City Is the Sole Client.** The City Attorney's sole client shall be the corporate entity of the City of Waukesha, and the City Attorney's professional responsibilities shall be to the City. The City Attorney shall have no other clients and no other employment as a lawyer.
- (3) **Removal from Office.** In order to preserve the independence of the office and avoid fear of reprisal for rendering opinions, the City Attorney shall be removed from office only for cause, and by a three-quarters vote of the entire membership of the Common Council. For purposes of this section, cause for removal shall mean inefficiency, neglect of duty, official misconduct, or malfeasance in office, including:

 - (a) Unjustifiable refusal or failure to perform the duties shown in subsection (2).
 - (b) Lack of physical or mental capacity to perform the duties shown in subsection (2).
 - (c) Violation of any provisions of Municipal Code §2.10 or Wis. Stat. §19.59.
 - (d) Discipline imposed by the Office of Lawyer Regulation.
 - (e) Failure to maintain a license to practice law in Wisconsin.
- (4) **Removal Procedure.** Removals from office pursuant to subsection (3) shall be done only upon the written complaint of a City official, and only after a due-process hearing before the Common Council at which the person sought to be removed may produce evidence and be represented by counsel. Appeal of the Common Council's decision shall be by writ of certiorari to the Circuit Court.
- (5) **Assistants.** The City Attorney may appoint assistants, in accordance with Wis. Stat. §62.09(12)(f), who shall have the power to perform the duties of the office and for whose acts the City Attorney shall be responsible to the City. Assistants must be licensed to practice law in the State of Wisconsin. Assistants shall receive such compensation as the Common Council shall provide.