

MUNICIPALITIES - Construction of Charter provisions of Maplewood, Mo.

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June 1st, 1934.

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Honorable Charles Altenbernd  
City Attorney  
Maplewood, Missouri

Dear Sir:

This acknowledges receipt of your request for an opinion, which is as follows:

"The City of Maplewood, St. Louis County, Missouri, is a City of the Third Class under the Alternative Form of Government.

By the terms of Revised Ordinance No. 6 of said City, Section 2 provides that the Council shall, at its first meeting after its election, appoint a Marshal, who shall be the Chief of Police, and until a change by future ordinance, he shall also be Chief of the Fire Department; etc.

The present Marshal holds all three offices but is only paid one salary, namely, that as Marshal.

In view of Section 18 of Article 9 of the State Constitution, which provides, "No person shall, at the same time, fill two municipal offices, either in the same or different municipalities", would it be your opinion that above Revised Ordinance No. 6 is void because it conflicts with above Section 18 of Article 9, and that the

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Marshal cannot legally be Chief of Police and Chief of the Fire Department?

May I call your attention to Section 6912 R. S. Mo., 1929, which reads that the Council "may require an officer or employe to perform duties in two or more departments; and may make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the City."

We understand from your request that Ordinance No. 6, Section 2 provides, among other things, that the person elected marshal shall be ex-officio Chief of Police and Chief of the Fire Department, and that the three positions are filled by one individual.

Under the above facts, it would appear that there is only one office created, namely, that of marshal, and that the duties of the Chief of Police and Chief of the Fire Department are, by ordinance, attached to and made a part of the general duties of the person elected to the office of marshal. There is, therefore, only one office to be filled, namely, that of marshal.

Section 18, Article IX of the Constitution of Missouri, in part, provides:

" \*no person shall, at the same time, fill two municipal offices, either in the same or different municipalities; \* "

You will note that the constitutional provision refers to offices, and since there is only one office involved in the problem presented by you, it is the opinion of this department that the above constitutional provision has no application to one office which automatically carries with it the duties of Police Chief and Fire Chief. It therefore follows

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that the above ordinance, No. 6, is not in conflict with  
Section 18, Article IX of the Constitution of Missouri.

Yours very truly,

FRANKLIN E. REAGAN  
Assistant Attorney General

APPROVED:

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ROY McKITTRICK  
Attorney General

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