

PROPOSAL OF COMMISSIONER MONTGOMERY AMENDING SECTION 4 OF DULUTH CITY CHARTER:

(A) ~~The office of mayor or councilor shall be deemed vacant in case of failure to qualify within ten (10) days after election, or by reason of death, incapacity, resignation, removal from the city or the district except as in Section 2 provided, conviction of a felony, violation of any of the duties of office, which, by provisions of this Charter, render the office vacant, or continuous absence from the city for more than thirty (30) days, but if additional time is needed, leave may be granted by the city council for a longer absence.~~

~~(B) If any such vacancy occurs~~ In the event of a councilor vacancy (other than by recall or resignation after recall petition is filed), the city council, by majority vote, shall without delay, within [ninety (90)/forty-five (45) days] of said vacancy, appoint an eligible person to fill the same, who shall serve until the first Monday in January after the next municipal election occurring after there is sufficient time to give notice prescribed by law, and until a qualified successor is elected, when the office shall be filled by election for the unexpired term. If the city council vote to appoint an eligible person to fill a vacancy results in a deadlock, an eligible person will be chosen by coin toss.

~~(C) The mayor shall appoint by written designation an acting mayor from one of the councilors-at-large on the first Monday in January after each general municipal election, and at other times as determined by the mayor. The appointment of a councilor as acting mayor designee shall not be deemed to create a vacancy in the office of councilor-at-large, but while serving as acting mayor such councilor shall not perform city council duties and shall have the effect of reducing the membership of the city council by one (1) member. The compensation of the acting mayor shall be set by city council commensurate with the duties required of the acting mayor from time to time.~~

~~(D) In the case event of an absence of shorter duration than renders the office of vacant, or in the event of disability a short term leave of the mayor of thirty (30) days or less, including but not limited to vacation, sick or other leave as permitted by law, the mayor's duties shall be filled by an acting mayor who shall be appointed by the mayor from the councilors-at-large after each general municipal election the city administrator, under the supervision of the mayor and subject to the direction of the mayor, shall exercise such powers and duties of mayor as delegated by the mayor.~~

~~(E) Should the mayor become incapacitated or be absent for more than ten (10) days without having appointed an~~ In the event of a continuous absence of the mayor for a duration of more than thirty (30) days but less than ninety (90) days, the acting mayor designee the district councilors, by majority vote, shall appoint one of the councilors-at-large may serve as acting mayor for the duration of the mayor's absence up to ninety (90) days. If the acting mayor designee is unable or unwilling to serve as acting mayor for the duration of the mayor's absence, and no councilor-at-large is willing to serve, the mayor may appoint, with the approval of city council, an eligible person to serve as acting mayor for the duration of the mayor's absence, up to ninety (90) days. However, in the event that no acting mayor is appointed, the office of mayor shall be deemed vacant and the city

council shall appoint, without delay, an interim mayor as provided in this Section 4. The compensation of the acting mayor during the mayor's absence or incapacity shall be set by the city council but shall not exceed councilor's fee for service.

(F) The office of the mayor shall be deemed vacant in case of failure to qualify within ten (10) days after election, or by reason of death, incapacity, resignation, removal from the city, conviction of a felony, violation of any of the duties of office, which, by provisions of this Charter, render the office vacant, or continuous absence from the city for more than thirty (30) days, except as otherwise provided in this Section 4.

(G) In the event of incapacity of the mayor, the acting mayor designee shall serve for the duration of the mayor's incapacity or until such time that the council appoints an interim mayor as provided in this Section 4, whichever occurs first. The mayor shall not be considered incapacitated within the meaning of this Charter unless such incapacity shall be determined by the council at a hearing held upon three (3) days notice to the mayor for the purpose of making such determination. ~~The appointment of a councilor as acting mayor shall not be deemed to create a vacancy in the office of councilor at large, but while serving as acting mayor such councilor shall not perform city council duties.~~

(H) In the event of a vacancy in the role of the mayor (other than by recall or resignation after recall is filed), the city council shall appoint an eligible person to serve as interim mayor, who shall serve until the mayor returns or until the next municipal election occurring after there is sufficient time to give notice prescribed by law and until a qualified successor is elected, whichever is earlier. If the city council appoints a councilor to serve as interim mayor, such councilor shall resign and their office shall be deemed vacant. The compensation of the acting-interim mayor during the absence or disability incapacity of the mayor shall be set by the city council in an amount commensurate with the duties required of the acting mayor from time to time as the salary of the mayor as provided in Section 5.