

## **Proposed AMENDMENT TO SECTION 4 OF DULUTH CITY CHARTER**

### **Sec. 4. Vacancies in office of mayor and councilor; acting mayor.**

(A) The office of mayor or city councilor shall be deemed vacant in case of failure to qualify within ten (10) days after election, or by reason of death, 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 days.

(B) In the event of a city councilor vacancy, the city council will need to determine if the vacancy needs to be filled. If the vacancy is less than 6 months from the next municipal election, the city council may choose to leave the seat open, and the vacancy will be filled through the regular election process. If the vacancy is greater than 6 months from the next municipal election, the city council shall appoint an eligible person to fill the city council role, who will serve until the first Monday in January after the next municipal election, when the office shall be filled by election for the unexpired term. A simple majority is needed for this appointment; if the 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 an acting mayor designee of one of the duly-elected city councilors after each general municipal election. 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, depending on the circumstances, such councilor may not be able to perform city council duties, which could have the effective of reducing the membership of the council by one member, as outlined in the guidelines below.

(D) City Council Guidelines for filling mayor vacancies. The following are guidelines for the city council and mayor, noting several options may be considered at any phase of the leave, including, appointment of an interim or acting mayor, or utilizing other resources at the discretion of the city council, or mayor, depending on the circumstances surrounding the vacancy.

**Guideline 1)** In the event a vacancy in the role of the mayor, as outlined in section A, the city council shall appoint an interim mayor that would serve until the mayor returns or until the next municipal election (whichever comes first). The interim mayor shall be a qualified citizen and must be a resident living in the City of Duluth. The interim mayor fee for service will be determined by the city council commensurate with the duties required.

**Guideline 2)** For short term leave of the mayor, up to 30 days, including vacation, sick or other leave as allowed by law, the city administrator, who is under the supervision of the mayor and subject to the direction of the council, will fill in the role. For the

administrative duties of the mayor, the acting mayor designee may be activated. In this limited capacity, the acting mayor may continue to serve on the city council.

**Guideline 3)** In the case of an absence of duration of more than 30 days but less than ninety (90) days or in the event of incapacity<sup>1</sup> of the mayor for such period of time. 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 notice to the mayor for the purpose of making such determination. The acting mayor designee may be engaged during this time period and would not be able to serve in the role of city councilor, thereby reducing the city council by one member. If the acting mayor designee is unable or unwilling to fill this role for the approximately 30-90-day timeframe, the mayor (assuming they are not incapacitated or have not vacated the role) or the city council may appoint an acting mayor, who is a qualified citizen in the City of Duluth, subject to approval by the City Council. If the mayor is deemed incapacitated or if the position is vacant more than 90 days and it is clear that the mayor will not be returning to office, the city council will appoint an interim mayor, see guideline 1 above.

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<sup>1</sup> \* Noting changes passed 09-21-2023.