



## Legislation Text

File #: 23-016-O, Version: 1

AN ORDINANCE AMENDING THE DULUTH HOME RULE CHARTER, 1912, AS AMENDED, MAKING NON-SUBSTANTIVE CHANGES TO MODERNIZE CHARTER LANGUAGE AND UPDATE TERMINOLOGY.

### CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 4 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

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

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, 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, but if additional time is needed, leave may be granted by the council for a longer absence.

If any such vacancy occurs (other than by recall or resignation after recall petition is filed) the council shall without delay appoint an eligible person to fill the same until the first Monday in January after the next municipal election, when the office shall be filled by election for the unexpired term. 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.

In the case of an absence of shorter duration than renders the office of mayor vacant, or in the event of ~~disability~~ incapacity of the mayor, 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. Should the mayor become ~~disabled~~ incapacitated or be absent for more than ten (10) days without having appointed an acting mayor, the district councilors, by majority vote, shall appoint one of the councilors-at-large as acting mayor. The mayor shall not be considered ~~disabled~~ incapacitated within the meaning of this Charter unless such ~~disability~~ incapacity shall be determined by the council at a hearing held upon 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.

The compensation of the acting mayor during the absence or disability 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.

Section 2. That Section 6 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

#### **Sec. 6. Legislative powers of city; time of council meetings; officers of council.**

All legislative powers of the city shall be vested in the city council and shall be exercised by it in the manner and subject to the limitations hereinafter set forth. ~~The councilors shall meet for organization on the first Monday of January, at which time it~~ At the first regular council meeting of each calendar year the council shall elect one councilor as president and one councilor as vice president. The city clerk shall be secretary of the council unless the council by a two-thirds vote shall determine to elect and employ another as secretary of the council, who shall not be selected from its own membership. The council shall determine its own procedure.

The council may employ and fix the compensation of not to exceed ten student interns or other qualified persons working on a part time basis to assist the council in performing its functions under this Charter, not to exceed a total budget expenditure of \$20,000 annually. Such employees shall not be within the classified service of the city. The provisions of this paragraph shall be implemented by resolution of the

council, which resolution must be approved by at least seven members of the council.

Section 3. That Section 8 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

**Sec. 8. Ordinances--required for all legislation and appropriations; recordation of votes.**

Except as in this Charter otherwise provided, all legislation and appropriations of money shall be by ordinance, save that where obligations have been incurred by ordinance, payment thereof may be ordered by resolution, and save also that licenses may be granted, flow of traffic regulated, and the powers conferred by Chapter IX hereof exercised, by resolution. The council may by ordinance authorize executive and administrative officers of the city to issue licenses and permits, except when statutes require licenses to be granted by the council, and to make contracts which are not subject to the competitive bidding requirements of Section 31 of this Charter up to an amount as set forth by ordinance. Every ordinance and resolution shall be in writing and title shall be read in full at a council meeting before a vote is taken, except (i) every ordinance or resolution, copies of which, together with a brief description of the purpose of said ordinance or resolution, are presented to each member of the council at least 12 hours prior to the time of the introduction of such ordinance or resolution, or (ii) every resolution awarding the sale of bonds, certificates of indebtedness, capital notes, lease purchase agreements, certificates of participation, and installment purchase agreements shall not be required to be read in full at each reading before the council, but may be read by title and such description. Ordinances and resolutions may be passed upon a voice vote of the council, but if such voice vote is not unanimous, the yeas and nays shall then be called and recorded.

Except for emergency ordinances or emergency resolutions or resolutions awarding the sale of bonds, certificates of indebtedness, capital notes, lease purchase agreements, certificates of participation, and installment purchase agreements, every ordinance and resolution shall be submitted to filed with the city clerk by at least 12:00 PM on the day of the agenda session 24 hours prior to the introduction of the same.

Section 4. That Section 19 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

**Sec. 19. ~~Chief administrative officer~~ City Administrator.**

There is hereby established the office of ~~chief administrative officer~~ city administrator, who shall be appointed by the mayor, subject to the approval by majority vote of the city council, ~~for an indefinite term~~. A duly appointed and confirmed ~~chief administrative officer~~ city administrator may be terminated by the mayor with the consent of the city council by a simple majority vote. The ~~chief administrative officer~~ city administrator shall be the principal assistant. Such assistant shall be appointed based solely on the ability to perform the duties and functions of the office, as set forth in this Charter. The ~~chief administrative officer~~ city administrator (i) shall be an ICMA credentialed city manager or meet the qualifications to be an ICMA credentialed city manager, or (ii) shall have had, during the ten years immediately preceding appointment, at least five years of successful experience in business or public administration, such as would qualify a person for the performance of the duties set forth in this Charter. The mayor may assign any other officer or employee of the city to perform the duties of the ~~chief administrative officer~~ city administrator during the vacancy of that office or absence or disability of that officer. The ~~chief administrative officer~~ city administrator, under the supervision of the mayor and subject to direction by the mayor, shall supervise the heads of all departments except the city attorney; appoint, with the approval of the mayor and the council, and remove, with the approval of the mayor, the heads of all departments; keep informed and keep the mayor advised concerning the activities of all offices, departments and boards and make, or cause to be made, investigations and studies of the internal organization and procedure of any office or department, and may require such reports from any of them which such assistant deems necessary; prescribe accepted standards of administrative practice to be followed by all offices and departments; prepare the annual operating and capital budgets and supervise the execution of budget ordinances; make information available to the mayor, the council and the public concerning the current status of the financial affairs of the city and all offices, departments and boards receiving appropriations from the city; attend meetings of the council at its request, and make available such information as it may require; perform all other duties required of such officer by this Charter, or by ordinance or assigned to such officer in writing by the mayor

The mayor, by prior written notice directed to the ~~chief administrative officer~~ city administrator, and

subject to approval by a majority vote, may relieve the ~~chief administrative officer~~ city administrator of any duties, powers or responsibilities granted the ~~chief administrative officer~~ city administrator by the terms of this Charter. Such written notice, signed by the mayor, shall be filed with the city clerk as a document of public record.

The ~~chief administrative officer~~ city administrator is forbidden to use official authority or influence for the purpose of affecting or interfering with a nomination or election to municipal office; or directly or indirectly to coerce, attempt to coerce, command or advise any municipal officer or servant or employee to pay, lend or contribute any part of such person's salary or compensation or anything else of value to any party, committee, organization, agency or person for municipal political purposes. The ~~chief administrative officer~~ city administrator is forbidden to make any contributions for municipal political purposes, but shall have full right to hold personal political beliefs and to speak on municipal issues.

The sole ground for removal of the ~~chief administrative officer~~ city administrator by the council shall be the finding by the council, based on due proof submitted to the council upon a hearing held upon notice for that purpose, that the ~~chief administrative officer~~ city administrator has violated the terms of the Charter restricting the political activity of such officer.

Section 5. That Section 21 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

At the head of each department there shall be an officer of the city, who shall have control and direction of the department subject to the general supervision of the ~~chief administrative officer~~ city administrator. The head of each department shall, with the approval of the ~~chief administrative officer~~ city administrator, have the power to appoint and remove all officers and employees of the department subject to the civil service provisions of this Charter; provided, that the equal opportunity representative shall be appointed by the mayor with the approval of the city council and may only be removed by the mayor with the approval of the city council. Two or more departments may be headed by the same individual and the ~~chief administrative officer~~ city administrator may head one or more departments, and heads of the departments may also serve as chiefs of divisions thereof as may be established by ordinance, upon recommendation by the mayor. The authority herein conferred upon the ~~chief administrative officer~~ city administrator is granted subject to the limitations contained in Section 19 of this Charter.

Each department head shall possess the necessary qualifications to insure efficient administration of such department. The council by ordinance shall establish appropriate minimum qualifications for department heads, ~~the deputy fire chief, the deputy chief of police~~ and the equal opportunity representative.

No officer or employee of the city may use their official authority or influence to compel another officer or employee of the city to apply for membership in or become a member of a political organization, to pay or promise to pay a political contribution or to take part in political activity.

All city employees shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates.

Section 5. That Section 21 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

#### **Sec. 21. Department heads.**

At the head of each department there shall be an officer of the city, who shall have control and direction of the department subject to the general supervision of the ~~chief administrative officer~~ city administrator. The head of each department shall, with the approval of the ~~chief administrative officer~~ city administrator, have the power to appoint and remove all officers and employees of the department subject to the civil service provisions of this Charter; provided, that the equal opportunity representative shall be appointed by the mayor with the approval of the city council and may only be removed by the mayor with the approval of the city council. Two or more departments may be headed by the same individual and the ~~chief administrative officer~~ city administrator may head one or more departments, and heads of the departments may also serve as chiefs of divisions thereof as may be established by ordinance, upon recommendation by the mayor. The authority herein conferred upon the ~~chief administrative officer~~ city administrator is granted subject to the limitations

contained in Section 19 of this Charter.

Each department head shall possess the necessary qualifications to insure efficient administration of such department. The council by ordinance shall establish appropriate minimum qualifications for department heads, ~~the deputy fire chief, the deputy chief of police and the equal opportunity representative.~~

No officer or employee of the city may use their official authority or influence to compel another officer or employee of the city to apply for membership in or become a member of a political organization, to pay or promise to pay a political contribution or to take part in political activity.

All city employees shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates.

Section 6. That Section 24 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

**Sec. 24. City auditor.**

The auditor shall be the accountant of the city and shall pre-audit all obligations proposed to be incurred to determine that they are within and pursuant to an appropriation made by ordinance ~~and are not in excess of the limitation established in Section 57 of this Charter.~~ In addition, the auditor shall perform all other duties imposed upon such office by the council, by the laws of this state or by the provisions of this Charter.

Section 7. That Section 36 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

**Sec. 36. Same--Powers and duties; exceptions for those persons entitled to worker's compensation benefits.**

(A). The board, with the approval of the council, shall make rules and regulations for the proper conduct of its business, and shall provide: for the classification of all employees, except

(1) the officers mentioned in Chapter IV (sections 18 through 34, inclusive) of this Charter;

(2) a maximum of three deputy chiefs of police, who at the time of appointment as such must be a sworn law enforcement officer in the classified service of the city;

(3) a maximum of three deputy fire chiefs, who at the time of appointment as such must be employed in the fire department of the city;

(4) an equal opportunity representative; and

(5) day laborers, officers of election boards, special police officers, special detectives and other temporary employees; for open competitive and free examination as to fitness for an eligibility list from which vacancies shall be filled; for a period of probation before employment is made permanent; and for promotion on the basis of merit, experience and record. Employees within the scope of this Chapter, who are in office at the time of the adoption of this Charter, shall retain their positions, unless removed for cause. The council may, by ordinance, confer upon the board such further rights and duties as may be deemed necessary to enforce and carry out the principles of this Chapter;

(B). Notwithstanding anything to the contrary in paragraph (A) above, the board, with the approval of the council, may establish noncompetitive or other alternative evaluation procedures for the employment of persons with disabilities when because of such disabilities the procedures prescribed by paragraph (A) would not provide such ~~disabled~~ applicants with disabilities with equal employment opportunity. The board may authorize the appointment of any such person to a position in the classified service if it determines that such person has so demonstrated the ability to perform the duties of the position;

(C). Notwithstanding anything to the contrary in paragraph (A) above or in any ordinance of the city, any person who is employed or has been employed by the city in any classified or unclassified position, who has sustained personal injury arising out of and in the course of such person's employment with the city within the meaning of the state worker's compensation law so that such person may be entitled to receive worker's compensation benefits as a result of such personal injury, or has sustained personal injury or developed a disease or debilitating condition such that the person may qualify for disability benefits pursuant to a long term disability insurance program provided by the city by collective bargaining agreement or otherwise, may be employed in any classified position deemed appropriate by the ~~chief administrative officer~~ city administrator

without having to comply with the ordinary classified service procedures regarding application for employment, testing, and certification from an eligible list. Any person employed in a classified position pursuant to this paragraph shall not be compensated for employment in such position at a rate which is greater than that currently prescribed for the city position or classification which such person occupied when the above-mentioned personal injury was sustained, or the above-mentioned disability occurred. The implementation of this Subsection (C) shall be subject to the provisions of any pertinent collective bargaining agreement to which the city is a party.

Section 8. That Section 54 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

**Sec. 54. Funds in city treasury; excise tax on hotels, motels, etc.**

(A). The city's accounting system shall present fairly and fully disclose the financial position and results of financial operations of the funds and account groups of the city in conformity with generally accepted accounting principles, as established by the Governmental Accounting Standards Board and the American Institute of Certified Public Accountants.

The requirements of the federal general accounting office, and ~~OMB Circular A-133~~ CFR part 200, subpart F (Uniform Guidance), or its successor, shall be followed in reporting all federal revenues and expenditures, as required, which will demonstrate compliance with finance-related legal and contractual provisions.

The accounting system of the city shall be organized and operated on a fund basis, which is a self-balancing accounting entity, recording cash and other financial resources together with related liabilities and residual equities or balances, which are segregated for the purpose of specific activities or objectives.

The city shall maintain a fund structure that includes:

- (1) A general fund to account for all financial resources, except those to be accounted for in another fund;
- (2) Special revenue funds, including a permanent improvement fund, to account for the proceeds of specific revenue sources, other than special assessments, expendable trusts, and major capital projects, which are legally restricted to expenditure for specified purposes;
- (3) Capital project funds to account for financial resources to as used for the acquisition or construction of major capital facilities, other than those financed by proprietary funds, special assessment funds and trust funds;
- (4) Debt service funds to account for the accumulation of resources for, and the payment of, general long-term debt principle and interest;
- (5) Enterprise funds to account for operations that are financed and operated in a manner similar to private business enterprises, where the intent of the city is that the costs, including depreciation, of providing goods or services to the general public, be financed through user fees, or where the city has decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for public policy, management control, capital maintenance, accountability or other purposes.

An enterprise fund shall be maintained for the acquisition, construction, support, maintenance and operation of each public utility owned and operated by the city, including the payment on any bonds or other indebtedness which may be a lien on such utility. There shall be paid into these funds all monies derived from the sale of bonds issued on account of any such utilities, and from the operation of such utility, and from the sale of any property acquired for or used in connection with any such utility. There shall be paid out of these funds the cost of the purchase, construction, extension, operation, maintenance and repair of any such utility, including the interest upon all bonds or other indebtedness which may be a lien upon such utility. Any surplus in such funds may be used for the purchase of any bonds or certificates of indebtedness issued upon said utilities, and for the payment of such bonds or other indebtedness upon their maturity;

(6) Internal service funds to account for the financing of goods or services provided by one department or agency to other departments or agencies within the city on a cost reimbursement basis;

(7) Agency Custodial funds to account for assets held by the city as an agent for individuals, private organizations or other governmental units.

The city shall establish and maintain those funds required by law and sound financial

administration consistent with legal and operating requirements, which should be established to avoid unnecessary funds which would result in inflexibility, complexity and inefficient financial administration.

An annual budget shall be adopted by the city of Duluth which allows the accounting system to provide the basis for appropriate budgetary control. Budgetary comparisons should be included in the appropriate financial statements and schedules, for which an annual budget has been adopted;

(B). Repealed by Ordinance No. 9142, 5-17-1993, § 2;

(C). Repealed by Ordinance No. 8265, 9-27-1976;

(D). There is hereby imposed an excise tax of three percent (3%) of the gross receipts derived from the furnishing for a consideration of lodging, of any hotel, rooming house, tourist court, motel or trailer camp, and of the granting of any similar license to use real property within the city other than the renting or leasing thereof for a continuous period of thirty (30) days or more. The council may exclude from such gross receipts income derived from the furnishing of lodging where the daily room rental is less than three dollars (\$3.00) or is less than such other greater or lesser amount as the council shall in its judgment from time to time determine. In no case shall the tax imposed hereby upon the proprietor of such establishment exceed the amount of tax which ~~he is~~ they are authorized and required by law to collect from the lodger. The city council may suspend, by resolution regularly adopted, the imposition of such tax in whole or in part in any year in which the council in its judgment shall determine that the revenue derived from such tax is not needed to accomplish the purposes to which such revenue is dedicated by virtue of the financial condition of the Duluth Entertainment Convention Center arena-auditorium ~~board of the city of Duluth~~ as evidenced by the financial statements of said board filed with the city council as required by Laws of Minnesota 1963, Chapter 305.

The tax shall be stated and charged separately from the charge made for the furnishing of such lodging, and shall be collected by the proprietor from the lodger insofar as practicable, and shall be a debt from the lodger to the proprietor recoverable at law in the same manner as other debts.

The director of finance and records, or such other officer as the mayor may designate, hereinafter termed the administrator, shall administer and enforce the assessment and collection of the taxes imposed by this Section.

The administrator shall promulgate all necessary rules and regulations for the administration and enforcement of this Section not inconsistent with its provisions; and such regulations shall have the force and effect of law.

The taxes imposed by this Section shall be due and payable to the administrator monthly on or before the 25th day of the month next succeeding, or such other reporting period as the administrator may prescribe.

In promulgating the necessary rules and regulations for the administration of this Section, the administrator shall require returns to be filed by each proprietor in such form as will insure the collection of the taxes imposed by this Section. Such rules and regulations shall include a system for reviewing the returns as so required and shall provide a method for the return of overpayments, and a method for the collection of any deficiencies.

The tax required to be collected by the proprietor shall constitute a debt owed by the proprietor to the city of Duluth, and shall be paid over to the administrator at the time hereinbefore provided, and in accordance with the rules and regulations promulgated by the administrator. The city council may, by ordinance, establish a penalty to be assessed if such tax is not paid within the time herein provided.

Failure to pay the tax or penalty as hereby imposed, or failure to abide by the rules and regulations as promulgated by the administrator, shall constitute a misdemeanor punishable by a fine of not more than three hundred dollars (\$300.00) or imprisonment for not more than ninety (90) days, or both.

For the purpose of determining the correctness of any return required by the administrator, or of determining whether or not a return should have been made, the administrator shall have the power to examine, or cause to be examined, books and records which may be relevant to such determination; but such information so gathered shall be treated as confidential; and it shall be unlawful for the administrator or any public officer to make such information public.

Five (5) percent or five thousand dollars (\$5,000), whichever is greater, of such tax as collected during each calendar year shall be paid into the general fund of the city of Duluth to cover the cost of administration and collection thereof.

Sixty-five percent (65%) of any such tax collected over and above the sums hereinbefore denominated

shall be paid into the general fund of the city of Duluth, to be used for the support and maintenance of the arena-auditorium of Duluth; and thirty-five percent (35%) shall be paid into an advertising and publicity fund, which shall be maintained in the city treasury, and which shall be used for advertising and promoting the city of Duluth as a tourist and convention center;

(E). There is hereby established in the treasury of the city of Duluth a fund designated as the community investment trust fund. The following monies shall be deposited into such fund:

- (1) \$3,100,000 from pre-1994 profits of the Fond-du-Luth Casino;
- (2) Net revenues received by the city in 1994 and future years from operation of the Fond-du-Luth Casino. "Net revenues" are revenues less expenses incurred by the city in administering the agreement with the Fond du Lac Band of Lake Superior Chippewa for operation of the casino;
- (3) Investment earnings generated by the monies in the fund;
- (4) Monies appropriated or transferred to such fund from time to time by the council or donated to such fund.

The accumulated investment earnings of this fund shall be transferred annually to the general fund.

Except for the annual transfer of investment earnings to the general fund, monies in this fund shall only be spent or transferred to another fund of the city by authority of a resolution approved by at least seven members of the council.

Section 9. That Section 58 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

**Sec. 58. Submission of budget to city council.**

On or before the first day of October in each year, the mayor shall submit to the council an estimate of the probable expenditures of the city government for the next ensuing fiscal year, stating the amount required to meet the interest and maturing bonds of the outstanding indebtedness of the city, and showing specifically the amounts necessary to be provided for each fund and each department; also an estimate of the amount of income from all other sources of revenue exclusive of taxes upon property, and the probable amount required to be levied and raised by taxation to defray all such expenses and liabilities of the city. The city council shall thereupon determine the sum to be raised by taxation and make appropriations in detail for the next ensuing fiscal year. The council shall, not later than ~~October 10~~ September 30 or the date set by the State of Minnesota, transmit to the county auditor of St. Louis County a statement of the amounts so to be raised by taxation, and the county auditor shall thereupon raise the same by tax levy as by law provided.

Section 10. That Section 64 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

**Sec. 64. Assessment.**

(a) After the date of the ordering in resolution described in Section 62 and upon completion of the work, the proper city officers shall calculate the expenses incurred in making the improvement;

(b) Thereafter, an assessment roll shall be prepared, which shall include assessments against property benefitted by the improvement. The roll shall be filed and open to public inspection;

(c) In estimating the benefits to any particular lot, piece or parcel of land, the proper city officers shall consider the owners' interest therein, the form and position of the several parcels of land, the qualified rights of the owners, and any other circumstances rendering the improvement beneficial to ~~him or them~~ the owners;

(d) Notice of the public hearing at which the council will consider the assessment roll shall be published in compliance with statutory requirements for publication of official notices not less than 20 days before such hearing. At least ten days before the hearing, notice thereof shall be mailed to every known owner of property subject to an assessment at his last known address;

(e) At the hearing or at any adjournment thereof, the council shall hear all persons relative to the assessment. Thereafter by resolution, it shall adopt the assessment roll with or without amendment.

Section 11. That Section 72 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby

amended as follows:

**Sec. 72. Power of city generally.**

The city of Duluth is hereby empowered to acquire, by purchase, gift, devise or condemnation, any property, corporeal or incorporeal, either within or without its corporate boundaries, which may be needed by said city for any public use or purpose, and the fact that the property so needed has been acquired by the owner under the power of eminent domain, or is already devoted to public use, shall not prevent its acquisition by said city. In addition to the power to acquire property for other public purposes, said city may also acquire, as herein provided, any line or lines of street railway within said city, and all the rolling stock, equipment and other properties of any person, company or corporation owning, or operating, such line or lines of street railway, and may also acquire any gas, water, heat, power, light, communication infrastructure ~~telephone~~ or other plant, or other public utility; but no proceedings to acquire any such street railway system or other plant or utility shall be consummated unless the city has the money in its treasury to pay for the same or unless provision for paying for the property proposed to be acquired has been made by vote of the people.

Section 12. That Section 79 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

**Sec. 79. Definitions.**

The word "franchises," as used in this Chapter, shall be construed to mean any special privilege granted for the purpose of profit to any person, co-partnership or corporation in, over, upon or under any of the highways or public places of the city of Duluth, whether such privilege has been, or shall hereafter be, granted by the city of Duluth, or by the state of Minnesota. The term "public service corporation, co-partnership or person," as used in this chapter, shall be construed to mean any person or corporation exercising any franchise within the city of Duluth, except those operating ~~steam~~ railroads.

Section 13. That Section 80 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

**Sec. 80. Authority of city to grant franchises.**

The council, may, by ordinance, adopted by the affirmative vote of seven-ninths of all its members, grant rights in, over, upon or under any highway or public place for the purpose of constructing or operating streets and other railways, or for communications ~~telephoning or telegraphing~~ or transmitting electricity, or ~~transporting by pneumatic tubes,~~ or for furnishing to the city or its inhabitants, or any portion thereof, water, light, heat or power, or for any other purpose, but subject always to the limitations and conditions in this Chapter prescribed

Section 14. That Section 100 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

**Sec. 100. Vacation of highways streets, alleys, public grounds, or public ways; use of public highways same by abutting property owners.**

(a) The council may vacate any street, alley, public grounds, public way, or any part thereof, on its own motion or on petition of a majority of the owners of land abutting on the street, alley, public grounds, or part thereof to be vacated.

(b) In the exercise of this power the council shall, by ordinance, provide that:

(1) The council shall refer petitions for vacation to the planning commission for investigation, public hearing, report and recommendation to the council, without undue delay and within sixty days from the time of the initial filing of the petition;

(2) Before holding a public hearing on any petition the planning commission shall give notice of the time, place and purpose of the hearing in such manner and form as the council may designate to the persons who own the land lying within a distance of 300 feet in a line beyond each end of the portion of the highway proposed to be vacated and to such other class or category of persons whom the council may designate in such ordinance;

(3) At the time and place set forth in the notice the interested persons shall be given an opportunity to be heard;



(4) The planning commission shall take into consideration the matters ascertained by its investigation in addition to the matters presented at the hearing;

(5) Upon considering the report of the planning commission, the council may vacate the street, alley, public grounds, or public ways ~~public highway~~ street, alley, public grounds, or public ways in whole or in part by resolution adopted by a vote of six of its members and as a condition of its action, the council may reserve easements in favor of the public within the area vacated;

(6) If the resolution be vetoed by the mayor, it may nevertheless be adopted by a vote of seven members of the council; and

(7) A record of all vacations shall be made either in the office of the register of deeds or the registrar of titles of St. Louis County, Minnesota. The council may set forth in such ordinance such additional terms, provisions and procedures not inconsistent with this Section as it may deem appropriate;

(c) All vacation proceedings heretofore or hereafter completed pursuant to the Charter provisions and ordinances in effect at the time of the initial filing of the petition shall be valid and effective for all purposes;

(d) The council may by ordinance permit abutting owners to make use of portions of public highways not physically being used or occupied by the public upon such terms and conditions and by such procedure as the council, in each such ordinance, may provide.

Section 15. That the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended to change any reference to “chief administrative officer” to “city administrator” throughout the charter.

Section 16. That the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended to change any reference to “utility” or “utilities” to “utility system” or utility systems” throughout the charter.

Section 17. That this ordinance was recommended by the city of Duluth Charter Commission and shall take effect 90 days after its passage and publication.

STATEMENT OF PURPOSE: This Ordinance was recommended for approval by the Duluth Charter Commission at their meeting on April 12, 2023, and must be passed by a unanimous vote of all city council members.