



Legislation Details (With Text)

File #: 20-041-O **Name:**
Type: Ordinance **Status:** Tabled
File created: 6/1/2020 **In control:** Committee of the Whole
On agenda: 6/8/2020 **Final action:** 7/20/2020
Title: AN ORDINANCE AMENDING THE CITY OF DULUTH HOME RULE CHARTER, 1912, AS AMENDED, CHANGING THE JOB TITLE OF CHIEF ADMINISTRATIVE OFFICER TO CITY ADMINISTRATOR

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
7/20/2020	1	City Council	failed	
7/13/2020	1	City Council	tabled	
6/22/2020	1	City Council	tabled	
6/8/2020	1	City Council	read for the first time	

AN ORDINANCE AMENDING THE CITY OF DULUTH HOME RULE CHARTER, 1912, AS AMENDED, CHANGING THE JOB TITLE OF CHIEF ADMINISTRATIVE OFFICER TO CITY ADMINISTRATOR

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 2 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

CHAPTER II. ELECTIVE OFFICERS.

Sec. 2. Form of government; city administrator ~~chief administrative officer~~; membership of council; council districts.

This government provided for by this Charter shall be known as the mayor-council form of government. The mayor shall be aided by a city administrator ~~chief administrative officer~~ who, in the performance of the duties of such office, shall be responsible to the mayor. The council shall have nine members, four elected from the city at large and five from geographical districts.

The city is hereby divided into five council districts numbered from one to five consecutively.

After the state legislative redistricting, based on a new federal census, the city council shall determine whether or not the population of each council district is substantially the same and, if not, the council shall by ordinance establish election precincts to the council districts so as to equalize, as nearly as practical, the number of people in each council district. Each council district shall consist of contiguous territory. If, in any such redistricting, the residence of any district councilor is placed outside of the enumerated district from which such councilor was elected, the office shall not be deemed vacant on that account and such councilor shall continue to serve out the term for which elected.

The council districts are established herein solely for the purposes of electing district councilors. The

administration of the city shall never be divided, nor any facility ever provided, nor any appropriation ever made upon a council district basis.

The terms of office of the mayor and councilors shall be for four years and until their successors are elected and qualified.

Section 2. That Section 3 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

Sec. 3. Mayor and council subject to initiative, referendum and recall; officers not to hold other public offices.

The mayor and councilors shall be subject to the control and direction of the people at all times by the initiative, referendum and recall provided for in this Charter. The mayor, chief administrative officer and councilors shall not hold any other public office, notary public excepted, during their tenure as mayor, city administrator ~~chief administrative officer~~ or councilors. The city administrator ~~chief administrative officer~~ shall be a full time officer of the city. The mayor shall not engage in any other occupation during business hours.

Section 3. That Section 5 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

Sec. 5. Salaries.

The salary of the mayor shall be set by the council.

The council shall provide in the annual operating budget a contingent fund of five thousand dollars (\$5,000) unless and until increased by the council. This fund may be expended by the mayor for such public purposes as the mayor may deem proper.

The appointed city administrator ~~chief administrative officer~~ shall be paid a salary set by the mayor with the approval of the council.

The council shall not decrease the salary of any mayor or incumbent city administrator ~~chief administrative officer~~, except prior to the general municipal election, and to take effect at the beginning of the next term of office for mayor.

The councilors shall be paid a fee for service as a member of the council. The Charter commission shall determine a suitable fee for service and recommend said fee to the council. The council must approve the recommended fee by at least a two-thirds vote. The new fee amount may not take effect until the month of January after the next municipal election. Service as a member of the council, to be eligible for this fee, shall require that the councilor shall be present and in attendance for at least one full formal meeting of the council during the month for which this fee is paid.

Section 4. That Section 7 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

Sec. 7. Regular and special meetings; quorum; records; investigations by council; employment of counsel.

(A). All meetings of the council shall be public. It shall keep minutes of its proceedings which shall be a public record. The council shall hold at least one regular meeting semi-monthly and shall fix the date of all regular meetings. Special meetings of the council may be called by the president of the council, or the mayor, and shall be called by the president upon petition of a majority of all members of the council. At any meeting of the council six members shall constitute a quorum, but a less number may adjourn from time to time. The council shall provide, by ordinance, a means by which a minority may compel the attendance of absent members. All councilors including the president, shall be entitled to vote in the council at all times. Administrative officers of the city, in matters relating to the functions of their offices, and the mayor at any time, shall have the right to attend any meeting of the council, or any of its committees, and may express their views on matters pending before the council, but they shall have no right to introduce any motion, resolution or ordinance, or amendments thereto, nor to vote thereon. The manner in which each member of the council votes upon all propositions shall be entered upon the minutes of the proceedings;

(B). The council may, by ordinance, establish a procedure not inconsistent with law for the holding of investigations of the operation of any office or department administering the affairs of the city, or on any subject upon which it may legislate. In conducting such investigations, the city council, or any member thereof, acting under authority of a resolution adopted by a majority of all members of the council, shall have the right to apply to any court of competent jurisdiction for subpoenas to compel the attendance of witnesses, the production of their books and papers, and the giving of testimony by such witnesses, whenever such attendance, production of books and papers, or the giving of testimony shall be in connection with a subject within the jurisdiction of the city council.

For the purpose of conducting inquiries and investigations the council may employ and fix the compensation of counsel, experts, and employees, and authorize such other expenditures as it deems necessary;

(C). All appointments to municipal office by the mayor, except the mayor's choice of city administrator ~~chief administrative officer~~, and all appointments of the city administrator ~~chief administrative officer~~ shall be submitted to the council for approval, and no appointment shall be effective until such approval is granted.

Section 5. That Section 18 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

Sec. 18. Powers and duties of mayor; council to deal with administrative service solely through mayor.

All executive and administrative powers of the city shall be vested in and exercised by the mayor, the city administrator ~~chief administrative officer~~ and such other officers as may be established by or pursuant to the provisions of this Charter. The mayor shall be the chief executive officer of the city. The mayor shall:

(a) Exercise directly, or with the assistance of the city administrator ~~chief administrative officer~~, supervision of all of the executive and administrative work of the city and provide for the coordination of administrative activities;

(b) See that the provisions of this Charter, the ordinances of the city and all laws are enforced;

(c) Appoint the city administrator ~~chief administrative officer~~ and, in addition, shall have the authority to appoint a communications and policy officer and a community relations officer to perform such duties as are established by job specifications established pursuant to Section 21 below;

(d) Appoint, with the approval of the council, the members of all non-salaried boards and commissions established by ordinance pursuant to the provisions of this Charter. When such boards and commissions are specifically declared by the council to be advisory to the mayor, no council approval shall be required;

(e) Have the power to remove, without restriction and without council confirmation, all officers appointed by the mayor except members of non-salaried boards who have been appointed for a definite term;

(f) Submit annually to the council for its consideration and approval an operating budget;

(g) Recommend to the council a pay plan for all officers and employees;

(h) Sign contracts, bonds or other instruments requiring the assent of the city, except those which other officers are authorized to sign;

(i) See that the terms and conditions of all contracts are faithfully executed;

(j) Upon receiving service of notice, summons or process, in any action or proceeding against the city, notify the city attorney and forthwith inform the council thereof in writing;

(k) Exercise such other powers and perform such other duties as may be prescribed by this Charter, by ordinance or by applicable state law.

The mayor may present to the council messages or information, attend council meetings, have a voice in the proceedings, veto ordinances and resolutions.

Neither the council, nor any of its members, shall direct or request the appointment of any person to, or the removal of any person from office by the mayor or by any of the mayor's subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city, except as otherwise provided in this Charter. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the mayor, and neither the council, nor any member

thereof, shall give orders to any subordinate of the mayor either publicly or privately. Any councilor violating the provisions of this Section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a councilor.

Section 6. That Section 19 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

Sec. 19. City administrator ~~Chief administrative officer.~~

There is hereby established the office of city administrator ~~chief administrative officer~~, 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 city administrator ~~chief administrative officer~~ may be terminated by the mayor with the consent of the city council by a simple majority vote. The city administrator ~~chief administrative officer~~ 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 city administrator ~~chief administrative officer~~ (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 city administrator ~~chief administrative officer~~ during the vacancy of that office or absence or disability of that officer. The city administrator ~~chief administrative officer~~, 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 city administrator ~~chief administrative officer~~, and subject to approval by a majority vote, may relieve the city administrator ~~chief administrative officer~~ of any duties, powers or responsibilities granted the city administrator ~~chief administrative officer~~ 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 city administrator ~~chief administrative officer~~ 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 city administrator ~~chief administrative officer~~ 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 city administrator ~~chief administrative officer~~ 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 city administrator ~~chief administrative officer~~ has violated the terms of the Charter restricting the political activity of such officer.

Section 7. 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 city administrator ~~chief administrative officer~~. The head of each department shall, with the approval of the city administrator ~~chief administrative officer~~, 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 city administrator ~~chief administrative officer~~ 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 city administrator ~~chief administrative officer~~ 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 8. That Section 25 of the City of Duluth Home Rule Charter, 1912, as amended, is hereby amended as follows:

Sec. 25. City treasurer.

The treasurer shall be the custodian of the funds of the city, and shall perform such duties as shall be required by the mayor, the city administrator ~~chief administrative officer~~, or by ordinance.

Section 9. 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.

z(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) two 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) two 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 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 city administrator ~~chief administrative officer~~ 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 10. That this ordinance shall take effect 90 days after its passage and publication.

STATEMENT OF PURPOSE: In order to better reflect the industry's professional standards and generally accepted professional title for the highest ranking administrative leadership position in Mayor-Council form of government, this action serves to retitle the position from Chief Administrative Officer to City Administrator. Originally titled as "Administrative Assistant" and subsequently updated to "Chief Administrative Officer", this would be the third change to the position's title since 1957. Each change has been made to address changing professional terminology, inclusivity and modernity.

The Charter Commission reviewed and recommended the above Charter amendment for approval at its meeting held on May 6, 2020.