

PERSONNEL COMMITTEE

12-010-0

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 13-1, 13-2, 13-3, 13-5.5, 13-6, 13-11, 13-19, 13-22, 13-24.1, 13-28, 13-29, 13-30, 13-36, 13-38, 13-39, 13-41, 13-42, 13-43, 13-45, 13-47, 13-48, 13-53, 13-54, 13-57.5, 13-60, 13-64.5, 13-65, 13-66, 13-69, 13-80, 13-85, 13-106 AND 13-125, ADDING A NEW SECTION 13-42.1, AND REPEALING SECTIONS 13-4, 13-7, 13-8, 13-9, 13-10, 13-12, 13-16, 13-18, 13-21, 13-27, 13-34, 13-37, 13-37.5, 13-39.1, 13-46, 13-49, 13-50, 13-51, 13-52, 13-55, 13-56, 13-58, 13-59, 13-60.5, 13-61, 13-61.5, 13-62, 13-63, 13-64, 13-67, 13-114, 13-115, 13-116 AND 13-124 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

BY COUNCILOR BOYLE:

The city of Duluth does ordain:

Section 1. That Section 13-1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-1. Adoption of regulations; exceptions to applicability.

There be and hereby is approved and adopted for the conduct of the affairs of the board of civil service of the city the following rules and regulations as set out in this Chapter. However, ~~sections 13-85, 13-86, 13-91, 13-92, 13-93, 13-100, 13-101, 13-102, 13-103, 13-104, 13-105, 13-106, 13-117, 13-118, 13-119, 13-120, 13-121, 13-122, 13-123, 13-124, 13-125, 13-126, 13-127, 13-128, 13-129, 13-130, 13-131, 13-132, 13-133, 13-134, 13-135, 13-136, 13-137 and 13-138~~ no individual Section or Sections of this Chapter shall not be applicable to any employee of the city who is a member of a collective bargaining unit of the city and who is subject to a written collective bargaining agreement between that unit and the city, if such Section or Sections contradict language in the pertinent collective bargaining agreement.

Section 2. That Section 13-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-2. Definitions.

For the purposes of this Chapter, the following words and

phrases shall have the meanings:

Appointing authority. The civil service board, administrative assistant, department head or acting department head, or staff officer appointed pursuant to charter or statute.

Board. The civil service board.

Class or class of positions. A group of positions established under this Chapter sufficiently similar in respect to the duties, responsibilities and authority thereof that the same descriptive title may be used to designate each position allocated to the class, that the same requirements as to education, experience, capacity, knowledge, proficiency, ability and other qualifications should be required of the incumbents, that the same tests of fitness may be used to choose qualified employees and that the same schedule of compensation can be made to apply with equity.

Classified employee. Any employee who, in accordance with the provisions of this Chapter, occupies any position in the classified service, or who is on leave of absence from such position if such position is held for such person pending such person's return, ~~but any employee who occupies a special test position pursuant to Section 13-37 shall not be a classified employee unless such person is then on such leave of absence.~~

Classified service. Any position in the service of the city; however, any temporary position, and any other position which is exempted from classification by the City Charter, shall not be in the classified service.

Eligible. Any person whose name is on a re-appointment, re-employment, promotional or employment list for a given class.

Eligible list. A list of the names of persons who have been found qualified for employment in positions in the classified service, including the names of persons on the re-appointment,

re-employment, promotional and employment lists, as defined in this Section.

Employment list. A list of the names of persons arranged in the order of merit who have been found qualified through suitable open-employment ~~original entrance~~ tests for employment in positions allocated to a ~~special~~ particular class.

~~Minority. Blacks, American Indians, Asians, Pacific Islanders and Hispanics.~~

Organization unit. Any department, institution, commission, board, office or other division of the city government or any subdivision thereof, commonly recognized as a unit for purposes of administration.

~~Original entrance~~ Open-employment test. A test or group of tests held to determine the relative fitness of applicants for positions allocated to a class and open not only to persons employed in the classified service, but also to other persons who are not or have not been so employed.

Permanent position. Any position which exists or which is likely to exist for a period of more than 100 working days.

Position. A full time or part time job for one person.

Promotional list. A list of the names of persons employed in the classified service in a lower class ~~of a series of positions,~~ as determined by pay range, who have been found qualified through suitable tests for promotion to a higher class of position in the same ~~series of classes~~ city department.

Promotion test. A test or group of tests held by the board to determine the relative fitness of applicants for positions allocated to a specified class and open only to employees in the classified service who have previously served in specified classes for such period as may be prescribed in each specific case in the class

specifications, in the public notice of the tests, or by special action of the board.

Qualifying list. A list of names of persons who have been employed in the classified service of the city for not less than one year in a classification that may have, for any reason, been abolished and who have been found qualified through suitable test for employment in related existing classes in any department.

Re-appointment list. A list containing the name of any person who has been demoted and whose name has been placed thereon pursuant to ~~Section 13-90~~this Chapter, which list shall exist separately for any class from which any such person has been demoted. Whenever more than one name is contained on any one such list, such names shall be ranked in order of seniority in the classified service.

Re-employment list. A list of the names of persons arranged in the order provided by this Chapter who have occupied permanent positions allocated to any class in the classified service, who have been separated from the service, and who, in accordance with this Chapter, are entitled to have their names certified to appointing authorities when vacancies in the class are to be filled, ahead of those whose names are on the employment list for the class.

Secretary. The chief administrative ~~assistant~~ officer for the city of Duluth or such member of the department of administration as the chief administrative ~~assistant~~ officer may designate.

Substitute appointment. An appointment to fill a temporary vacancy in a permanent position caused by the temporary absence of the regular incumbent because of sickness, special leave of absence, military leave of absence or other similar cause.

Temporary position. Any position described in subsections (a), (b), (c) or (d) below. The terms of any job description adopted for use in the classified service shall not be deemed to

establish, or to be evidence of, the existence of a temporary position. Temporary positions are:

(a) Any position which exists, or is likely to exist for a period of 67 working days, or less, in a calendar year;

(b) Any position which exists, or is expected by management to exist, for a period of more than 67 days worked in a calendar year, but for not more than 100 calendar days in a calendar year;

(c) Any position which is occupied by a person who is employed as a participant pursuant to the Federal Older American Community Employment Act, as amended; or other person who is a participant in a service or job training program which is organized so that the funding source of the pay received by the participant is the federal government or the state government;

(d) Any position occupied by an individual whose assigned work schedule does not exceed the lesser of 14 hours each week or 35 percent of the normal work week in the employee's work unit.

Temporary employee. Any person who occupies a nonclassified position described in subsections (a), (b) or (d) of the definition of "temporary position." Persons occupying nonclassified positions described in Subsection (c) of said definition are not temporary employees.

Title, class title or classification title. The designation given under this Chapter to a class, to each position allocated to the class, and to the incumbent of each position allocated to the class.

~~Underutilized occupational category. An occupational category, as defined by the federal equal employment opportunity commission, in which the board, after an annual evaluation of employment statistics for the category, has determined that the percentage of women and/or minorities employed by the city in any~~

~~occupational category is less than the percentage of women and/or minorities employed in that category throughout the city.~~

~~Underrepresented group. Women or minorities shall be deemed to be an "underrepresented group" when, within an occupational category as defined by the federal equal employment opportunity commission, the percentage of members of such group employed within the category by the city is less than the percentage of members of such group employed within the category throughout the city as a whole.~~

~~Most underrepresented group. If both women and minorities are underrepresented groups within an occupational category, the group with the greatest numerical difference in percentage between employment by the city and employment throughout the city shall be deemed the "most underrepresented group."~~

Section 3. That a new Section 13-3 of the Duluth City Code, 1959, is hereby added to read as follows:

Sec. 13-3. Duties of secretary.

(a) The secretary shall act as the secretary to the board, attend meetings of the board, prepare matters that require board action, and prepare the board minutes;

(b) The secretary shall serve as a non-voting ex officio member of the board and shall have the right to participate in board discussions;

(c) The secretary shall arrange for all training of the board required by this Chapter;

(d) The secretary shall be the chief executive officer of the board, and, under the direction of the board, shall administer and enforce this Chapter;

(e) The secretary shall have general charge of holding tests, certifying eligible candidates, and maintenance of records,

as set forth in this Chapter and in accordance with state and federal law.

Section 4. That Section 13-4 of the Duluth City Code, 1959, as amended, is hereby repealed.

Section 5. That Section 13-5.5 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-5.5. Additional duties of board with regard to collective bargaining agreement provisions, ~~authority of board to discharge its charter authority by approving collective bargaining agreement provisions.~~

In addition to the authority and responsibility conferred upon the board by the City Charter and the other provisions of this Chapter, the board shall act in accordance with the authority and responsibility conferred upon it by any provision of any collective bargaining agreement to which the city is a party.

~~The board may discharge any of the authority and responsibility conferred upon it by the City Charter by approving any appropriate provision of any collective bargaining agreement to which the city is a party.~~

Section 6. That Section 13-6 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-6. Meetings of the board ~~regular meetings.~~

Regular meetings of the civil service board shall be held, unless otherwise scheduled, on the first Tuesday of each month in Duluth city hall ~~the office of the board~~, except when such a day is a holiday, in which case the meetings shall be held on the next following business day.

Section 7. That Sections 13-7, 13-8, 13-9, and 13-10 of the Duluth City Code, 1959, as amended, are hereby repealed.

Section 8. That Section 13-11 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-11. Records of board declared public records; exceptions.

The civil service board and secretary shall comply with all state and federal laws regarding records management and data practices. ~~Except as otherwise provided in this Chapter, the minutes, eligible lists, official roster, and papers prepared by the board for general distribution are hereby declared to be public records and shall be open to public inspection at the board's principal office under reasonable conditions during business hours; provided, that materials used in tests, correspondence and records not specifically mentioned herein may, by direction of the secretary, be considered confidential and not open to examination by any person not employed by the board.~~

Section 9. That Sections 13-12, 13-16, and 13-18 of the Duluth City Code, 1959, as amended, are hereby repealed.

Section 10. That Section 13-19 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-19. Same--same--Interpretation.

The specifications for the various classes of positions are hereby declared to have the force and effect as specified in this Section:

(a) The specifications are intended to indicate the kinds of positions that should be allocated to the respective classes as determined by their duties, responsibilities and qualification requirements, but the use of a particular expression or illustration as to duties, qualification requirements or other attributes shall not be held to exclude others not mentioned if such others are similar as to kind or quality;

(b) In determining the class to which any position should be

allocated, the specifications for each class shall be considered as a whole. Consideration is to be given to the general duties, the specific tasks, the responsibilities, the required and desirable qualifications and the relationships to other classes as affording together a picture of the positions that the class is intended to include;

(c) Titles, as far as possible, are intended to be suggestive of the kind of work performed by the incumbent of the position and indicative of the rank;

(d) The duties statement shall be construed as a general description of the kind of work performed by the incumbent of a position that properly is allocated to the class, and not as prescribing or limiting what the duties of any position shall be;

(e) The typical tasks shall be construed as examples only, illustrative of the duties as outlined by the general statement, although these examples are not intended to be complete or exclusive, and the fact that the actual tasks performed by the incumbent of a position do not appear therein shall not be taken to mean that the position is necessarily excluded from the class; provided, that the tasks constituting the main work or employment are duly covered by the general statement of duties; and provided further, that any one example of a typical task, taken without relation to the general statement of duties and all other parts of the specifications, shall not be construed as determining whether a position should be allocated to the class;

~~(f) The statement of required and desirable qualifications constitutes a part of the description of the kind of employment by expressing the minimum and desired qualifications expected of any new appointee if he is to perform the work properly, and is to be so construed, and not as imposing in itself any new or additional~~

~~requirements for the filling of positions, and although they may not be mentioned in the qualifications statement, such qualifications as should properly be required in common of the incumbents of all positions such as good physical condition, freedom from disabling defects, citizenship, suitable age, honesty, sobriety and industry are taken for granted.~~

Section 11. That Section 13-21 of the Duluth City Code, 1959, as amended, is hereby repealed.

Section 12. That Section 13-22 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-22. Reallocation of existing positions and the establishment of new positions.

(a) Whenever the duties of an existing position are so changed that in effect the old position as described no longer exists, the appointing authority shall forthwith report this fact to the board, with a full statement of the circumstances and a description of the duties as changed. The board shall, after an investigation of the actual and proposed duties or responsibilities and qualification requirements reclassify the position, subject to the approval of the chief administrative assistant officer, by allocating it to its appropriate class in accordance with the classification plan then in effect, or is necessary, by establishing a new class, subject to the approval of the city council, to provide for the reclassification of the position;

(b) Whenever a new position is added, the appointing authority shall determine the appropriate classification for such position, or, if it determines that no appropriate classification exists within the classification plan, refer the position to the board for the establishment of an appropriate new classification.

Section 13. That Section 13-24.1 of the Duluth City Code, 1959, as amended,

be amended to read as follows:

Sec. 13-24.1. When written notice effective.

Formal written notice of a job specification revision as required in Section 13-20, of a new job specification or new title, if resulting from job audit shall not be effective until accompanied by a recommendation of pay rate by the mayor and the ~~applicable personnel committee established by collective bargaining agreement if that personnel committee shall have such power of review through contract agreement~~ chief executive officer of the union to which the affected employee belongs to, if the affected employee is covered by a valid collective bargaining agreement.

Section 14. That Section 13-27 of the Duluth City Code, 1959, as amended, is hereby repealed.

Section 15. That Section 13-28 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-28. Promotion and original entrance tests may be held to establish eligible list for any class.

Whenever tests are to be held to establish an eligible list for any class, the board, after securing the recommendation of the appointing authority, shall decide as to whether ~~promotion or original entrance~~ internal or open tests, or both, shall be held. If both ~~promotion and original entrance~~ internal and open tests are held, the tests will be identical in nature and scored as separate categories.

Section 16. That Section 13-29 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-29. Promotional list to have precedence over employment list.

The employment list resulting from ~~original entrance~~ open-employment tests shall not be used as long as any classified

employee whose name is on a promotional list established pursuant to an internal-employment test for that class is willing to accept appointment when certified. Vacancies in the higher classes of positions in the police and fire departments that are not a result of lay-offs or demotions shall only be filled through the use of internal-employment tests.

Section 17. That Section 13-30 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-30. Duration of certain eligible lists.

All employment or promotional lists shall become effective on the date the list is approved by the board. The duration of any employment or promotional list shall be determined by the board at the time the board approves the test as required by ~~Rule 13-42~~this Chapter. In no case shall the duration of a list exceed two years from the date of approval.

Any name placed on any re-appointment list shall remain on the list for five years, unless removed pursuant to ~~Section 13-63~~this Chapter, however, any name shall be removed if the person resigns from or is removed from the classified service.

Section 18. That Section 13-34 of the Duluth City Code, 1959, as amended, is hereby repealed.

Section 19. That Chapter 13-36 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-36. Applications for appointment ~~or promotion to be filed with secretary.~~

~~Any person desiring appointment to or promotion in the classified service shall file with the secretary of the board a written application on the prescribed form for entrance to the next test to be given to persons from whom selections are to be made for appointment or promotion to positions in a given class.~~

(a) All applications for appointment to the classified service shall be filed with the secretary;

(b) Application materials shall be determined by the secretary;

(c) All applications shall be filed with the secretary by the deadline specified in the public notice. The secretary shall reject any application received after the specified deadline;

(d) All applicants shall provide evidence that they meet the minimum qualifications for the class and other documents as required by federal or state law.

Section 20. That Sections 13-37 and 13-37.5 of the Duluth City Code, 1959, as amended, are hereby repealed.

Section 21. That Section 13-38 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-38. When applications for tests to be filed.

Applications to take the next test in any class of positions shall be filed at least ~~seven~~ four calendar days prior to the date set for such test, unless otherwise provided by the civil service board.

Section 22. That Section 13-39 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-39. Criminal history background checks.

The secretary is authorized to coordinate pre-employment background investigations on applicants for appointment to the classified service, subject to the limitations of federal and state law.

~~The police department is hereby authorized to conduct criminal history background checks on applicants for city employment or for volunteer positions, subject to the following:~~

~~(a) The criminal history background check may only be~~

~~conducted on finalists for positions and only when the secretary has determined that conviction of a crime may relate directly to fitness of applicants for the position;~~

~~(b) The applicant must have consented in writing to the criminal history background check and to the release of the information obtained to the person or persons involved in the hiring decision. An applicant's failure to consent to the background check is sufficient basis to disqualify the applicant for the position sought.~~

Section 23. That Section 13-39.1 of the Duluth City Code, 1959, as amended, is hereby repealed.

Section 24. That Section 13-41 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-41. Same--Grounds.

Any of the following may be deemed sufficient cause for rejecting an applicant, though rejection may be made for causes other than those enumerated:

(a) That the applicant failed to timely file their application~~is found to lack any of the minimum qualifications as stated in the class specifications;~~

(b) That the applicant is found to lack any of the minimum qualifications as stated in the class description~~physically unfit to perform the duties of the position to which he seeks appointment;~~

(c) That the applicant is unable to perform the essential functions of the class~~addicted to the habitual or excessive use of drugs, narcotics or intoxicating beverages;~~

(d) That the applicant has been removed from previous employment with the city for cause, delinquency or guilty of a crime~~or of disgraceful conduct;~~

(e) That the applicant has intentionally made a false

~~statement in their application been dismissed from employment in the public service or in a commercial or other organization for delinquency or misconduct;~~

(f) That the applicant has been previously employed in the classified service and has been removed for cause or did not resign in good standing~~intentionally made a false statement in his application with regard to any material fact;~~

(g) That the applicant refused to consent to a background investigation.~~on the closing date announced for filing applications has not attained the age of 18 years or exceeds the age of 64 years, unless otherwise prescribed in the class specifications and specified by the board in the announcement of the examination;~~

~~(h) That the applicant has been previously employed in the classified service and has been removed for cause or did not resign in good standing.~~

Section 25. That Section 13-42 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-42. Entrance and promotional tests-secretary to recommend schedule, nature of tests and weight to be assigned each test.

The secretary shall submit to the board for its approval schedules of entrance and promotional tests for the various classes of positions as required by these rules or the needs of the service, and in his/her recommendations the secretary shall include the proposed dates for holding the tests for various classes of positions, the nature of the tests which he/she considers advisable to use and the relative weights he/she thinks should be assigned to each test.

Section 26. That Chapter 13 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 13-42.1 which reads as follows:

Sec. 13-42.1. Board approvals.

The board may, at any regular or special meeting, approve changes in a job classification and approve the test notice and testing requirements for that amended job classification in the same meeting, provided that the test date on the test notice is set to allow at least the minimum amount of time necessary to obtain two readings before the city council if council approval is needed, prior to the test date. If the council fails to approve the amended job classification prior to the testing, the test shall be cancelled and the test notice voided. The purpose of this Section is to allow expeditious hiring, if necessary for the employment needs of the city. This Section is not intended to prohibit the approval of job classification changes in advance of a test notice.

Section 27. That Section 13-43 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-43. ~~Same~~ Entrance and promotional tests--Duty of secretary to hold tests, give notice, prepare materials, secure facilities, etc.

When the board approves his/her recommendations, with or without modifications, the secretary shall proceed to hold the tests and shall see that proper public notice is given, that the necessary test material is prepared, that applicants are notified of the time and place of the tests, that rooms and other facilities are secured, that the work of the testees is rated and that the resulting employment list is prepared and submitted to the board for approval.

Section 28. That Section 13-45 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-45. ~~Same~~--Form--tests to determine fitness and ability of applicants.

The tests used to determine the fitness of applicants for

positions in any class in the classified service and to establish employment lists containing the names of persons eligible for appointment to positions allocated to the class ~~may be written or oral in the form of a demonstration of skill or any combination of these and shall~~ comply with any applicable state or federal law and, as far as possible, be of a character fairly to test and determine the relative fitness and ability of applicants actually to perform the duties of the positions to which they seek appointment, and any tests or combination of tests that, in the judgment of the board, serve to this end may be employed.

Section 29. That Section 13-46 of the Duluth City Code, 1959, as amended, is hereby repealed.

Section 30. That Section 13-47 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-47. Same--Notice to be given.

At least 14 days prior to tests for any class of positions, the secretary shall have prepared in a form suitable for general distribution detailed information as to duties, qualification requirements, nature of the tests to be used, relative weight assigned to each test or group of tests, the minimum rating, if any, required in any test or group of tests, the probable number of appointments to be made immediately and during the life of the employment list to be established, and other pertinent information. A copy of the statement containing such detailed information shall be supplied to each applicant, to any person requesting it and to each appointing authority.

Further, for any ~~original entrance~~ open-employment test, the secretary shall advertise for applicants in a legal newspaper in the city, as such a newspaper is defined by Chapter 331 of Minnesota Statutes and may advertise in any other media outlet deemed

appropriate by the secretary.

Section 31. That Section 13-48 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-48. ~~Same~~ Concealment of identity of persons tested Testing procedure.

~~The board shall determine in advance of the tests for any class of positions whether the identity of the testees shall be concealed in any or all of the tests, and shall take such steps as it considers necessary and desirable, to bring about the concealment of the identity of testees where such action is decided upon.~~

(a) The secretary shall ensure that all tests are administered in a fair and lawful manner;

(b) Any person who obtained or used without permission any extraneous, forbidden or unfair source of information or otherwise cheated shall be deemed to have failed the test. A violation of this Section by a current employee of the city shall constitute just cause for discipline;

(c) If the board determines that the tests held were not fair, the board may void the tests and order an appropriate corrective action;

(d) The secretary shall notify in writing all test participants of the action and any rights they may have to be heard by the board.

Section 32. That Sections 13-49, 13-50, 13-51 and 13-52 of the Duluth City Code, 1959, as amended, are hereby repealed.

Section 33. That Section 13-53 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-53. ~~Same~~ Report of scores Creation of eligible list.

~~Following the completion of the scoring, the secretary shall prepare or cause to be prepared a statement showing the names of the~~

~~testees, the raw score of each testee in each test or group of tests and the total weighted score of each testee. The names of the testees shall be arranged in the statement in the order of total weighted scores with the highest first; provided, that if two or more testees have the same weighted score the names of such testees with the same score shall be placed on the statement in the same rank.~~

(a) Following the completion of test scoring, the secretary shall prepare an eligible list showing the names of the test participants, the raw score of each participant in each test or group of tests and the participant's total weighted score;

(b) The names of the participants shall be arranged on the eligible list in the order of total weighted scores with the highest first; provided, that if two or more participants have the same weighted score, those names shall be placed on the eligible list in the same rank;

(c) In no case shall the name of any applicant be included on an eligible list if the applicant fails to obtain a passing score on any test or group of tests, as stated in the notice of test.

Section 34. That Section 13-54 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-54. ~~Same~~Entrance and promotional tests--Report of results to person taking tests.

As soon as possible after the approval of any employment list by the board, and in any case within a week, the secretary shall send to each testee a written report of the score given him or her for each test or group of tests, of his or her total weighted score, and, if his or her name is placed on the employment list, of his relative standing on the list. Any testee who fails to make the score required for any test or group of tests shall be notified of

the fact.

Section 35. That Sections 13-55 and 13-56 of the Duluth City Code, 1959, as amended, are hereby repealed.

Section 36. That Section 13-57.5 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-57.5. ~~Special conditions for employment of CETA employees~~Certification of eligibles.

~~Notwithstanding any provision of this Chapter to the contrary, no person who is employed in a position in the classified service pursuant to the federal Comprehensive Employment and Training Act of 1973, as amended, and who did not gain such position by compliance with Section 13-57, shall be employed in such position for more than 52 weeks. This Section shall also be deemed to pertain to such employment which has occurred at the time that this Section becomes effective.~~

Whenever a vacancy in a position in the classified service is to be filled other than by transfer or demotion, the appointing authority shall request that the board certify the names of the persons eligible for appointment;

(a) The board shall certify from the list in the following order: re-appointment, re-employment, internal-employment, or internal-employment and open-employment list;

(b) When certification from a re-appointment or re-employment list is made, the board shall certify the name of the person whose name is highest on the list and who still meets the qualifications of the classification;

(c) When certification from an internal-employment list is made, the board shall certify the names of the three persons highest on the internal employment list; however, when more than one vacancy is to be filled, the number of names certified shall be twice the

number of such vacancies. Certification shall start with the name in the highest position on the list. When certification is made from a rank consisting of more than one name, the names of all persons in such tied rank shall be certified;

(d) When certification from an open employment list is made, the board shall certify the names of the seven persons highest on the open employment list; however, when more than one vacancy is to be filled, an additional two names shall be certified for each additional vacancy. When certification is made from a rank consisting of more than one name, the names of all persons in such tied rank shall be certified;

(e) The appointing authority may also request the certification of the name of an additional eligible in case one whose name was first certified withdraws from consideration, does not accept the position or does not respond to the appointing authority's communications;

(f) The secretary shall provide notice of certification by mail or via electronic communication to the applicant certified at the last notification address appearing in the secretary's records;

(g) The notification shall advise the applicant of the certification, the title of the position, the organization unit, the name and address of the appointing authority, and other appropriate instructions;

(h) A copy of the notice shall be sent to the appointing authority.

Section 37. That Sections 13-58 and 13-59 of the Duluth City Code, 1959, as amended, are hereby repealed.

Section 38. That Section 13-60 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-60. Same--Procedure when no re-employment or promotional list exists; procedure when less than three names available.

~~If there is no re-employment list for the class or no person whose name is on said list is willing to accept appointment, the secretary shall certify the names and addresses of the three persons highest on the promotional list for the class who are willing to accept appointment in the position in which the vacancy exists, at the rate of compensation designated in the request. If there are less than three names on the promotional list, the secretary shall certify the number of names that remain on said list; provided, that if there is no re-appointment, re-employment or promotional list, or no person whose name is on any such list for the class is willing to accept appointment, the name and address of the person with the greatest seniority in his original classification who is on the qualifying list for the class, and who is willing to accept appointment shall be certified. In case there are no lists as described above or no person whose names are on any of said lists who are willing to accept appointment, the names and addresses of the three persons highest on the employment list for the class and willing to accept appointment shall be certified, except as otherwise provided in ~~Section 13-61.5~~this Chapter.~~

Section 39. That Sections 13-60.5, 13-61, 13-61.5, 13-62, 13-63 and 13-64 are hereby repealed.

Section 40. That Section 13-64.5 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-64.5. Delay of appointment by appointing authority if insufficient number of names on employment list; use of other lists.

When certification is made from an employment list, and the

number of names certified is less than ~~the greater of three or twice~~
~~the number of vacancies to be filled~~seven, the appointing authority
may then refuse to appoint anyone so certified, except as ~~provided~~
~~in Section 13-73~~otherwise provided in this Chapter, and the
appointing authority may then wait for an adequate employment list
to be established; but if any other eligible list is established for
such class before an adequate employment list is established, such
other eligible list shall be used. This Section shall only apply to
positions being filled solely by an open-employment test.

Section 41. That Section 13-65 of the Duluth City Code, 1959, as amended,
be amended to read as follows:

Sec. 13-65. Appointing authority to notify secretary of appointment
of eligibles; ~~failure of appointing authority to appoint~~
~~within 90 days of certification.~~

The appointing authority shall promptly notify the secretary
as soon as he has made arrangements to begin work with an eligible
whose name has been certified. Such notice shall include the date
when the eligible is to begin work, and when the new employee begins
work, the appointing authority shall forthwith report that fact to
the secretary, giving the date; provided, that if such notice is not
received within fifteen days after certification, the appointing
authority shall file with the secretary, in writing, the reason for
the delay. ~~In case of failure to appoint within 90 days after~~
~~certification, the secretary shall report the facts to the~~
~~administrative assistant who shall then proceed to make such~~
~~appointment in accordance with civil service rules. If a civil~~
~~service position is not filled by an eligible candidate, then the~~
~~board shall be notified of such and the reason for no appointment.~~
~~If, in a decision of the board, the reason for no appointment is~~
~~legitimate and appropriate, the board may extend the length of time~~

the eligible list remains in effect.

Section 42. That Section 13-66 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-66. Eligible person to have reasonable time to make arrangements to begin work; delay may justify certification of additional name.

The appointing authority shall allow the eligible reasonable time to make any arrangements necessary before taking up the duties of the position to which he is appointed. If the time required, however, is more than two weeks, the appointing authority may ask for the certification of the name of some other eligible, giving the reasons therefor, and such request for additional certification may be approved or denied by the secretary as seems to him for the best interests of the city as an employer; ~~but if the number of eligibles certified to the appointing authority was augmented by the effect of Section 13-61.5, such request shall be denied unless the number of other certified eligibles is less than the number that the appointing authority would have received without the effect of Section 13-61.5.~~

Section 43. That Section 13-67 of the Duluth City Code, 1959, as amended, is hereby repealed.

Section 44. That Section 13-69 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-69. Probation period for classified employees--duration; applicability to persons laid off or demoted without cause or who become members of the armed forces in times of war or other emergency.

Any person appointed to a position in the classified service after certification from an eligible list shall be on probation for a period of six months, unless a longer period is specified in the

public notice of such tests; and any person who bumps from a position in one classification to a position in a lower classification, pursuant to a layoff, as provided for in a collective bargaining agreement of the city, shall be on probation for a period of six months; provided, that if an employee bumps or has been laid off or demoted without fault on the part of such employee, and has completed the probationary period in the classification to which he or she is bumping, being demoted or reappointed, such employee shall not be required to serve a second probationary period; provided further, that if an employee bumps or is laid off or demoted without fault on the part of such employee during the probationary period, and is appointed to a position in the same class in the same organization unit from which such employee bumped or was laid off or demoted, the probationary period already served shall be carried over to the new appointment, but if appointed in a different organization unit, such employee shall serve a full probationary period for the class; provided further, that any employee who has been appointed to a permanent position in the classified service who, ~~subsequent to September 18, 1940,~~ shall become a member of the armed forces of the United States in time of war or other emergency declared by proper authority, or who shall thereafter become a member of said armed forces during said time, who has not served the required probationary period for said position at the time of becoming a member of said armed forces shall, with the approval of the appointing authority and the board, at the date that such employee becomes a member of the armed forces of the United States, be considered to have completed said probationary period.

Section 45. That Section 13-80 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 13-80. Temporary vacancies in permanent positions.

Whenever a temporary vacancy in a permanent position occurs due to sickness, injury, leave of absence, military leave of absence, or other similar cause, such vacancy shall be filled by certification from the re-appointment list, re-employment list, promotional list, or employment list, in the order as they appear in sections 13-59 and 13-60, subject to the limitations provided in sections 13-107, 13-108, 13-109 and 13-110. A temporary vacancy is defined as one lasting, or projected to last, a minimum of 30 days.

Section 46. That Section 13-85 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 13-85. Transfers within classified service--compliance with sections 13-86 through 13-921.

Transfers of an employee holding a position in the classified service to another position in the classified service shall be made only in accordance with the rules hereinafter provided in sections 13-86 through 13-921.

Section 47. That Section 13-106 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 13-106. Same--Probationary employees.

Any employee who has been appointed to a permanent position in the classified service of the city who, ~~subsequent to September 16, 1940,~~ shall have become a member of the armed forces of the United States, in time of war or other emergency declared by proper authority, or who shall hereafter become a member of said armed forces during said time, who has not served the required probationary period for said position at the time of becoming a member of said armed forces shall, with the approval of the appointing authority and the civil service board, at the date that he becomes a member of the armed forces of the United States, be

considered to have completed said probationary period and shall thereafter have full civil service status as though a full probationary period had been served and shall be granted a military leave of absence in accordance with the rules set out in this Chapter, and shall, upon completion of such military service, if he is physically and mentally able to perform the duties of the position, be reinstated to the position which he held at the time of becoming a member of said armed forces in accordance with the rules hereinbefore set out.

Section 48. That Sections 13-114, 13-115, 13-116 and 13-124 of the Duluth City Code, 1959, as amended, are hereby repealed.

Section 49. That Section 13-125 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-125. Removal of classified employees--to be for cause only; prohibited grounds.

~~Except as provided in Section 13-124, a~~Any employee holding a position in the classified service who has completed the probation period prescribed in accordance with this Chapter may be removed only for cause upon written charges and after an opportunity to be heard in his own defense; provided, that in no case may an employee be removed on account of his religious or political opinions or affiliations or for refusing to contribute to a political fund or to render political service.

Section 50. That this ordinance shall take effect 30 days after its passage and publication.

Approved as to form:



Attorney

CCREQ/ATTY SBH:dma 02/10/2012

STATEMENT OF PURPOSE: This is an alternate to City Proposal No. 11-060-O Amending Chapter 13 of the Duluth City Code, Relating to Civil Service. This alternative ordinance was drafted and submitted by the Duluth Police Union, Local 807 through Councilor Boyle.