



---

## MEMORANDUM

---

### OVERVIEW

The Charter Revision Work Group plan requires this office to review the proposed revisions and provide an overview as to specific changes in the Charter that would affect various City departments. There are several changes to the Charter provisions that relate to the Police Department. Issues as to the appointment of the police chief, however, are discussed in a separate memorandum that addresses appointments generally.

Most police department matters are dealt with via ordinance or internal regulations and are not discussed in the Charter. The proposed Charter revision contemplates that some provisions currently contained in the Charter will be removed to ordinance. *See* the side-by-side comparison of the current Charter with the proposed Charter revision for such Charter provisions.

### ANALYSIS

#### **I. Powers of Mayor over Police Chief**

The existing Charter gives the Mayor certain specific powers over the Police department and the police chief:

The mayor shall be vested with all the powers of said city connected with and incident to the establishment, maintenance, appointment, removal, discipline, control and supervision of its police force, subject to the limitations herein contained and the provisions of the civil service chapter of this Charter, and may make all needful rules and regulations for the efficiency and discipline, and promulgate and enforce general and special orders for the government of the same, and have the care and custody of all public property connected with the police department of the city.

Charter Chap. 6, Sec.1. The Minnesota Supreme Court has stated that the existing charter “places in the hands of the mayor of the city complete supervision over the police department.” *Rees v. City of Minneapolis*, 117 N.W. 432, 433 (Minn. 1908). The mayor “is vested with authority and power to remove a

policeman from duty and to reinstate him, and the term of removal may be long or short. He has authority to define the duties of such officers, and, incident to his general powers, may take such steps as may be necessary to improve the service by proper discipline of the men, and such discipline may reasonably require complete removal, temporary removal and reinstatement, or suspension for a temporary purpose, with or without pay.” *Id.*

In contrast, the proposed Charter revision simply states that “the Mayor regulates and commands the police department. Except where the law vests an appointment in the department itself, the Mayor appoints and may discipline or discharge any employee in the department...” This change in language could affect the Mayor’s ability to exercise power over the police department. Under the current Charter, the Mayor is free to exercise “all powers of said city” as regards the police department. Under the proposed Charter revision, the Mayor is limited to “regulating and commanding” the police department and appointing and disciplining certain employees.

## II. Term of Chief’s Service

Under the current Charter, the Chief of Police’s term of office is “three years from and after the second day of January of the year of appointment.” Charter Chap. 6, Sec. 1. The proposed Charter revision specifies a three year term without specifying a commencement date or a termination date. *See* proposed Charter revision, Charter, Sec. 8.3(a)(1)(B). This issue could be resolved by specifying the date a chief’s term begins.

In addition, the proposed Charter revision does not contain a provision explaining that when vacancies for chief are filled, the appointment is for the remainder of the term. The current Charter contains language explaining this at Chap. 6, Sec.1. Again, this issue could be resolved by adding language noting that an appointment is for the remainder of the term.

## III. Appointment of Temporary Police and Special Police

The current Charter allows the Mayor to appoint **temporary police officers** if necessary in times of “riot, large public gatherings or other unusual occasions.” *See* Charter Chap. 6, Sec 1. Such appointments are limited to one week or less, and do not require the approval of the City Council. *Id.* The proposed Charter revision retains this power, but omits the language stating that such appointments do not require approval by the Council.

In addition, the current Charter allows the Mayor to appoint **special police** at the request of “any firm, society, or organization. . .” who “have police powers to preserve the peace and protect the property at such places and within such limits as may be designated . . . but such special police officers or guards shall not exercise authority or wear any badge of office outside the limits so designated.” *See* Charter Chap. 6, Sec. 3. Although Minneapolis Code of Ordinances Title 9, Sec. 171.90 provides additional guidance regarding the appointment of “special police”, it appears that the two Charter concepts (temporary police and special police) are combined in the ordinance, under the heading of “special police”. The proposed Charter revision retains this power in substantially the form as the current Charter.

In determining whether these provisions are necessary for either the Charter or ordinance, one should keep the following in mind: 1) the MPD is a party to mutual aid agreements with other police departments in the metro area who have and will readily respond to the MPD's request for additional police (as occurred in the 35W bridge collapse); and 2) POST Board requirements may exist that preclude the appointment of special or temporary police officers.

#### **IV. Funding Requirements**

The current Charter requires the City Council to impose a tax annually that allows the City to maintain a required Police personnel ratio. *See* Charter Chap. 6, Sec. 2:

For the sole purpose of maintaining the personnel of the Police Department as provided in Section 1 hereof, the City Council, notwithstanding other statutory or Charter tax limitations, shall levy a tax annually, in addition to the City general fund levy, in such amount as is necessary to maintain the Police Department personnel ratio, but only to the extent such amount is in excess of the sum used to maintain the number of employees constituting the Police Department on January 1, 1961. In no event shall such additional tax exceed three (3) mills on each dollar of assessed valuation on all taxable real and personal property of the City, such mill rate limitation to be converted and adjusted in the manner provided in Minnesota Statutes, Sections 273.1102 and 275.011. The additional tax and levy herein provided shall not be reduced by the Board of Estimate and Taxation, and the proceeds therefrom shall be appropriated only to the use of the Police Department personnel, and related other than personnel items, and the City Council shall not reduce any other appropriation made for police purposes by reason of the additional tax and levy herein provided.

The current language is mandatory in two respects. It states both that the City must fund the police department at a certain level and that it shall levy a tax annually. The proposed Charter revision states that the Council "must" fund a police force but goes on to state that it "may" annually tax residents to do so. *See* Proposed Revised Charter Sec. 8.3(d). (stating that City Council "must fund a police force of at least 0.0017 employees per citizen" and further stating "it may annually tax up to 0.03591 percent of the total value of the property in the City.") It therefore makes the tax requirement permissive, rather than mandatory. The proposed Charter revision also eliminates the requirement of Charter Chapter 6 Sec. 2 that the tax be only that amount in excess of the sum used to maintain the number of employees in the police department on January 1, 1961.

Finally, in the provisions referenced above, both the current Charter and the proposed Charter revision address the funding level of the Police Department and the ratio of "employees" to citizens at which the Police Department must be funded. It is unclear if the amount stated refers to "sworn" MPD personnel or the all MPD employees.

## V. Crime Prevention Bureau

Both current Charter Chap. 6, Sec. 5 and proposed Charter revision Sec. 8.3(a)(2) mandate the creation of a Community Services or Crime Prevention Bureau in the Police Department. The current Charter provides that the City Council determines by ordinance how and by whom the director of this bureau is to be appointed. Pursuant to Minneapolis Code of Ordinances, Title 9, Chapter 171.20, the City Council designates the police chief to appoint the director of the community services or crime prevention bureau at a rank equivalent to deputy chief.

In reviewing the Charter provision with the Police Department, we are advised that much of the Crime Prevention Bureau has been decentralized to the various police precincts, under the command established in the precincts. In addition, the director position no longer has the level of responsibility for the Bureau as it had when the Charter and ordinance were drafted. Therefore, these provisions may be obsolete and unnecessary.

## VI. Removal of Language to Ordinance

In keeping with the philosophy of the Model Charter for Minnesota Cities, certain current Charter provisions related to the Police Department have been removed from the Charter to ordinance. Moving provisions to ordinance, however, results in a significant difference as to how easily those provisions may be altered. Amending a Charter provision requires either a 13-0 vote of the City Council or a majority popular vote in favor of a ballot question. Amending an ordinance, however, requires only a majority vote of all Council Members present. Shifting the specific provisions related to the Police Department from Charter to ordinance will mean that those powers and duties can be much more easily changed, or even eliminated by the Council.

Following is a side-by-side comparison of current (left-hand side) and proposed (right-hand side) Charter provisions related to the Police Department. Language in *italics* is proposed to be moved from Charter into ordinance.

Current Charter	Proposed Charter Revision
<b>Chapter 6</b> <b>Police Department</b>	
<p><b>§ 1. Powers of Mayor over Police—Chief</b>                      The mayor shall be vested with all the powers of said city connected with and incident to the establishment, maintenance, appointment, removal, discipline, control and supervision of its police force, subject to the limitations herein contained and the provisions of the civil service chapter of this Charter, and may make all needful rules and regulations for the efficiency and discipline, and promulgate and enforce general and special orders for the government of the same, and have the care and custody of all public property connected with the police department of the city.</p>	<p>[§ 8.3(a)]                      The Mayor regulates and commands the police department.</p>
<p>The executive committee shall, by and with the consent of a majority of all of the members of the city council, appoint for a term of three (3) years commencing January 2, 1980, some</p>	<p>[§ 8.3(a)(1)]  <b>Police chief.</b>                      (A) <b>Appointment.</b> The Mayor nominates and the City Council</p>



<p>suitable person as chief of police, subject to removal upon the recommendation of the executive committee by a vote of a majority of all of the members of the city council. Such position shall be in the unclassified service. The term of office of each chief of police shall be three (3) years from and after the second day of January of the year of appointment. In case of a vacancy occurring otherwise, the appointment shall be for the unexpired term. <i>Ten (10) days prior to the appointment of a chief of police, the executive committee shall file with the city clerk the name of all persons the executive committee is then considering for the appointment. The chief of police may be reappointed by a majority of all members of the city council. In the event that the council does not reappoint within thirty (30) days of the termination of the term, the executive committee shall within sixty (60) days thereafter make a new appointment.</i> Persons holding the position of chief of police shall be entitled to the same employee benefits as persons in the classified service except as to appointment and removal. If the person appointed chief of police is a member of the classified service, such person shall be deemed to be on leave of absence during the tenure as chief of police, and upon the termination of service as chief of police shall be returned to his or her permanent civil service classification. If no vacancy is available in that permanent civil service classified position, seniority shall prevail and the person most recently certified to such position shall be returned to the permanent civil service classification held prior to such certification.</p>	<p>appoints a police chief under section 9.4(b).  <b>(B) Term.</b> The chief's term is three years.  <b>(C) Civil service.</b> The chief serves in the unclassified service, but with the same employee benefits (except as to hiring and removal) as an officer in the classified service. If a chief is appointed from the classified service, then he or she is treated as taking a leave of absence while serving as chief, after which he or she is entitled to return to his or her permanent grade in the classified service. If no vacancy is available in that grade, then the least senior employee so classified returns to his or her grade before being so classified.</p>
<p>The Mayor shall also appoint, subject to the provisions of the civil service chapter of this Charter, all members of the police force and other employees of the department prescribing the title, rank and duties of each, and report a list thereof to the city council, and the civil service commission.</p>	<p>[§ 8.3(a)]  Except where the law vests an appointment in the department itself, the Mayor appoints and may discipline or discharge any employee in the department (subject to the Civil Service Commission's rules, in the case of an employee in the classified service).</p>
<p>The personnel of the police department shall be established and maintained at a ratio, or as closely thereto as is possible within the limits of section 2 hereof, of not less than one and seven-tenths (1.7) employees per one thousand (1,000) of population of the city according to the latest United States official census.</p>	<p>[§ 8.3(d)]  <b>Funding.</b> The City Council must fund a police force of at least 0.0017 employees per citizen . . . .</p>
<p><i>Each and every person so appointed shall be subject to removal by the mayor when the mayor shall deem the same necessary after proper investigation in accordance with the civil service chapter of this Charter.</i></p>	<p>[§ 8.3(a)]  Except where the law vests an appointment in the department itself, the Mayor appoints and may discipline or discharge any employee in the department (subject to the Civil Service Commission's rules, in the case of an employee in the classified service).</p>
<p>The mayor may also, in case of riot, large public gatherings or other unusual occasions demanding the same, appoint such number of temporary police as may be needed but not for a period of more than one (1) week, without the consent of the city council.</p>	<p>[§ 8.3(b)]  <b>Temporary police.</b> The Mayor may, in case of riot or other emergency, appoint any necessary temporary police officer for up to one week. Each such officer must be a licensed peace officer.</p>
<p>All police officers so appointed shall be licensed as required by law and shall possess all the common law and statutory powers of peace officers, and any warrant for search or arrest issued by any magistrate or court of record in Hennepin County may be</p>	<p>[§ 8.3(a)(3)]  <b>Police officers.</b> Each peace officer appointed in the police department must be licensed as required by law. Each such licensed officer may exercise any lawful power that a peace</p>



<p>executed in any part of said county by any member of said police force.</p>	<p>officer enjoys at common law or by general or special law, and may execute a warrant anywhere in the county.</p>
<p><b>§ 2. Buildings, Etc., Salaries and Bonds of Police Officers</b>  <i>The city council shall provide all buildings, facilities and equipments, and all other public property as may be necessary or deemed essential to the efficiency of said police force and department, and shall, by resolution, fix the salary and compensation of each member of the force and provide for the payment thereof. The City Council shall also fix the amount of the bonds to be required from each officer and the conditions thereof, and pass upon the same, and when so requested by the Mayor, shall determine the maximum number of members to constitute said Police Force.</i> For the sole purpose of maintaining the personnel of the Police Department as provided in Section 1 hereof, the City Council, notwithstanding other statutory or Charter tax limitations, shall levy a tax annually, in addition to the City general fund levy, in such amount as is necessary to maintain the Police Department personnel ratio, <i>but only to the extent such amount is in excess of the sum used to maintain the number of employees constituting the Police Department on January 1, 1961.</i> In no event shall such additional tax exceed three (3) mills on each dollar of assessed valuation on all taxable real and personal property of the City, such mill rate limitation to be converted and adjusted in the manner provided in Minnesota Statutes, Sections 273.1102 and 275.011. The additional tax and levy herein provided shall not be reduced by the Board of Estimate &amp; Taxation, and the proceeds therefrom shall be appropriated only to the use of the Police Department personnel, and related other than personnel items, and the City Council shall not reduce any other appropriation made for police purposes by reason of the additional tax and levy herein provided.</p>	<p>[§ 8.3(d)]  <b>Funding.</b> The City Council must fund a police force of at least 0.0017 employees per citizen, and provide for those employees' compensation, for which purpose it may annually tax up to 0.03591 percent of the total value of the property in the City. This tax is in addition to any other tax, and not subject to the maximum set under section 10.3(a)(4).</p>
<p><b>§ 3. Special Police—Powers</b>  The Mayor may at any time, at the request of any person, firm, society or organization, or several thereof, appoint special police officers or guards who shall serve without expense to the City and have police powers to preserve the peace and protect the property at such places and within such limits as may be designated in such appointment for the term therein mentioned, but such special police officers or guards shall not exercise any authority or wear any badge of office outside the limits so designated.</p>	<p>[§ 8.3(c)]  <b>Special police.</b> The Mayor may appoint special police for a limited place and time at the request and expense of any organization, business, individual, or other person. The special police may not wear a badge or exercise any authority outside those limits.</p>
<p><b>§ 4. Oath and Bond of Police Officers</b>  Before entering upon or exercising any official duty, each and every appointee under this chapter shall take, subscribe, and file in the office of the City Clerk an oath to support the constitution of the United States and of the State of Minnesota, and faithfully perform the duties of the office, <i>under direction of the Mayor and Chief of Police, and, if the City Council shall so require, shall also file a bond, in manner, form and amount, as prescribed by the City Council, with said City Clerk.</i></p>	<p>[§ 9.2(a)]  <b>Oath.</b> Before taking office, each officer must sign and file with the city clerk an oath in substantially the following form: "I swear [<i>or 'affirm'</i>] that I will faithfully discharge the office of [title], and will support the constitutions of the United States and of Minnesota."</p>



<p><b>§ 5. Community Services Bureau (Crime Prevention)— Appointment of Director</b> There shall be established in the Police Department a Community Services Bureau (Crime Prevention) with duties as the Chief of Police may assign to it. The City Council shall by Ordinance determine how and by whom the Director of this Bureau is to be appointed. The Director of Community Services Bureau (Crime Prevention) shall serve in the unclassified service and is not required to be a peace officer.</p>	<p>[§ 8.3(a)(2)] <b>Crime-prevention bureau.</b> The City Council must provide for a crime-prevention bureau, headed by a director in the unclassified service, who need not be a peace officer. The Council must provide by ordinance for the director’s appointment, which need not comply with section 9.4(b). The bureau performs the duties that the police chief assigns.</p>
--	---

**CONCLUSION**

This memo is intended to be a guide to the changes contained in the proposed Charter revision and to assist the Work Group in its discussion of those changes.

