

MEMORANDUM

TO: Mayor Diane Wolfe Marlin and City Council Members

FROM: Elizabeth Hannan, Human Resources & Finance Director / CFO

DATE: August 12, 2021

SUBJECT: **Ordinance Amending the City Code – Staff Appointments and Civil Service**

Introduction: Attached is an Ordinance amending the Urbana City Code related to appointments and the civil service system. As part of the ongoing effort to implement professional human resources practices in the City of Urbana, this Ordinance would clarify which staff positions are appointed and extend the term for which appointees may serve. In addition, language regarding civil service would be revised to allow for extension of probationary periods without involvement of the Civil Service Commission and to extend the period for which temporary employment is permitted in civil service positions.

Background:

Illinois Municipal Code: The Illinois Municipal Code addresses appointments in 65 ILCS 5/3.1-30-5. It specifies certain positions that may be appointed by the Mayor with the advice and consent of City Council. It does not specify the length of appointment terms, but it does limit the term of appointments to the term of a mayor.

The Code specifies that when an appointee resigns their “office” (i.e., appointed position) or is not reappointed, that person continues in that appointed position until a successor is appointed. So, while an appointment can technically be made only through the last day of a mayor’s term, the appointee would not vacate that position until the incoming mayor would have an opportunity to take office and make a determination as to whether or not it was in the best interests of the municipality to reappoint the officer to that position, or to put forward another candidate for appointment, thus providing continuity of operations during mayoral transitions.

The Code also articulates specific positions that may not be included in civil service. Notably, a number of positions that have historically been appointed at the City may be included in civil service. This includes positions listed below that are recommended for removal from the appointment process and placement in civil service.

Appointment Practices in Illinois: The practice of appointing certain staff appears to be common among mayor-aldermanic (also referred to as aldermanic or aldermanic-city) municipalities in Illinois. The City of Danville appoints police and fire chiefs, their deputies, department heads, and others whose appointment is required by State law. Those individuals are appointed by the Mayor and

confirmed by the Council, and serve without reappointment until their employment ends. The City of Springfield appoints department heads, and the police and fire chiefs. These individuals are appointed by the Mayor and confirmed by the City Council for the Mayor's term. The City of Moline appoints a City Administrator and several department heads. None of these cities requires appointment for employees below the level of a deputy chief or deputy director. In terms of the overall number of appointed positions and the frequency with which appointees must be reappointed, Urbana is an outlier.

In Council-Manager forms of government, the City Manager is generally appointed by the City Council and the Manager then is responsible for hiring all other staff. This is true of Bloomington, Champaign, Normal, DeKalb, Pekin, Rock Island, and other municipalities, with some very limited exceptions.

Examples for some municipalities of comparable size or close proximity to Urbana, with whom we may compete in the labor market, are provided in the following table. This information was obtained from review of online City Codes.

| Municipality / Form of Government | Appointed Staff Positions from City Code |
|--|--|
| Bloomington, IL (Council-Manager) | Manager appointed (term based on employment agreement), others appointed by Manager |
| Carpentersville, IL (Council-Manager) | Village Manager (indefinite term), Clerk, Treasurer (4 year term); others appointed by Manager |
| Champaign, IL (Council-Manager) | City Manager appointed (indefinite term), others appointed by Manager |
| Danville, IL (Aldermanic) | Police & Fire Chiefs, Police & Fire Deputy Chiefs (not mentioned in Code), other department heads; appointed for Mayor's term |
| DeKalb, IL (Council-Manager) | Manager appointed (term based on employment agreement), others appointed by Manager |
| Galesburg, IL (Council-Manager) | City Manager (indefinite term) and Treasurer (four year term) are appointed, others appointed by Manager |
| Moline, IL (Aldermanic) | City Administrator, Assistant City Administrator, Corporation Counsel, City Clerk, Public Works Director, Finance Officer (term not specified) |
| Normal, IL (Council-Manager) | Municipal Manager appointed (indefinite term), others appointed by Manager |
| Pekin, IL (Council-Manager) | City Manager appointed (indefinite term), City Clerk appointed, others appointed by Manager |
| Rock Island, IL (Council-Manager) | City Manager (indefinite term), Clerk and Treasurer appointed (4 year terms, others appointed by Manager |
| Springfield, IL (Aldermanic) | Police & Fire Chiefs and other department heads (appointed for Mayor's term) |

Civil Service System: Employees who are not appointed (with certain exceptions for part time, seasonal, and temporary positions) are part of the City's civil service system. It is relatively uncommon in Illinois for municipalities to use a civil service system. It bears noting that moving a position into civil service does not remove accountability. Civil service rules provide a mechanism

for disciplinary actions, up to and including termination. While civil service systems are designed to ensure fair hiring practices, they also create a more cumbersome hiring process. Of the comparable communities listed above, it appears that only Springfield has a civil service system. A 2020 survey of 21 metro Chicago area communities found that only three had a civil service system.

Appointments in Urbana: Based on the reference in the City Code, sections related to the appointment process have not been revised since at least 1975.

Some positions that were not previously appointed were later added to the appointment list, including police lieutenants. In 1994, there were 21 appointed positions, including one vacant position. In 1999, the Mayor's recommended appointments included 25 positions. In 2003, the list included 26 positions. In 2013, the list included about 30 positions. Over the past few years, some positions for which appointment is not required by either the City Code or State statute were moved into civil service. Those positions were removed from the appointment list and the job descriptions were approved by the Civil Service Commission (CSC). The list of appointments in 2021 included 19 individuals, and there were three vacant appointed positions, for 21 appointed positions.

There have been specific changes in the list of appointed positions, or in the status of positions within the City's organizational chart. Police Lieutenants did not appear on the list of appointments until 2011. Even then, at least one incumbent lieutenant remained in civil service, while new lieutenants were subject to appointment. Lieutenants do not report directly to the Police Chief and do not have broad management discretion or authority to set policy. Fire Division Chiefs, who are the counterparts to Lieutenants in the Police Department, were included on the list as early as 1999. However, after the recent department restructuring, which added a Deputy Chief, they no longer report directly to the Fire Chief. They also do not have broad management discretion or authority to set policy.

Recently, some appointments have become contentious, causing a great deal of stress for some appointees and resulting in concern about stability and predictability in the organization. Human Resources staff also are concerned about the City's ability to retain and recruit highly qualified individuals for these positions, since many well-qualified employees or applicants are likely to have other employment options. Some individuals who may be eligible for promotion in the future have expressed concern about applying for a position that may require appointment. In addition, staff reporting to appointed individuals have expressed concern about stability in leadership, and some individuals have expressed a desire to separate from the City's employment if they must continue to be appointed.

Discussion:

Goal of Proposed Changes: Broadly, the recommended changes are proposed to address concerns about the current appointment process including providing stability and predictability among leadership in the City organization, providing a degree of stability for appointed employees in terms of expectation of continued employment, improving staff's ability to retain and recruit qualified employees (including internal promotions), and aligning the City of Urbana's practices with those of other Illinois municipalities. All of these changes will contribute significantly to maintaining a professional and positive work environment.

Recommended Changes to List of Appointees: The following positions would continue to be appointed, but appointments could be done as infrequently as once during the Mayor’s elected term.

- City Administrator
- Police Chief
- Fire Chief
- Public Works Director
- Director of Community Development Services
- Finance Director
- Deputy Police Chief
- Deputy Fire Chief
- Deputy Public Works Director
- Deputy Finance Director
- Human Rights and Equity Officer
- City Engineer
- City Attorney

Most of these are department head or deputy department head positions with both broad management responsibilities and discretion to set policy. The Illinois Municipal Code requires that the City Engineer and City Attorney be appointed. Additionally, the Mayor prefers to appoint the Human Rights and Equity Officer because of the employee’s broad role in setting City policy.

The following positions were appointed in June 2021, but would no longer be appointed.

- Information Technology Manager
- Fire Division Chief (3)
- Police Lieutenant (4)
- Senior Advisor for Integrated Strategy Development (limited term position)

These positions do not have the same broad management responsibility or discretion to set policy when compared to positions that would remain appointed.

Explanation of Proposed Changes by Code Section: Proposed changes in each section are discussed below and the attachment is a detailed strikeout version showing all changes.

In Chapter 2, “Administration,” the following sections are revised –

Sections 2-42 and 2-43 relate to the positions that are appointed and the term of those appointments. The proposed amendment would reduce the number of appointed positions and allow for terms as long as the Mayor’s term. This would provide more stability for the City organization, since fewer appointments would be subject to this process and the terms would be for longer periods. This also conforms more closely to State law regarding appointments.

Section 2-42 is revised to specify which positions will be appointed. The list of positions is limited to those that have broad management responsibility including significant authority to direct the City’s resources and create policy. Positions that would be appointed are limited to the following: city administrator, finance director, city attorney, chief of police, chief of the fire department, director of public works, director of community development services, deputy finance director, deputy chief of police, deputy chief of the fire department, deputy director of public works, city engineer, city attorney, and human rights and equity officer. These are generally department heads and deputy department heads with broad management responsibility. The city engineer and city attorney must be appointed under State law, and because of the role of the human rights and equity officer in setting policy for the City, the Mayor felt that it was important for this position to be appointed.

Other employees have less independence and it is difficult to make a credible argument for those positions being appointed. Moreover, their lower level of operational oversight is generally reflected in a lower salary than those of department heads or their deputies. The appointments would be made with the advice and consent of the City Council, which is consistent with the terminology used in the Illinois Municipal Code.

Section 2-43 would be revised to clarify that the term of office for appointed employees may be as long as the Mayor's term, which is also consistent with the Illinois Municipal Code.

Section 2-70 regarding appointment of the finance director would be repealed, since appointment of the finance director is addressed in Section 2-42.

Section 2-99 regarding the civil service system would be revised for consistency and would specify that other positions shall not be excluded from civil service. The list of appointed positions would be removed here, since that list is included in Section 2-42. In addition, it would be clarified that the Mayor is the appointing authority for civil service positions and that the Mayor's designee may perform certain functions in relation to the Civil Service Commission. Currently, an employee in human resources (HR) has been delegated that responsibility.

Language regarding the probationary period for civil service employees would be revised so that notification to the CSC would not be required when probationary periods are extended. The goal of extending a probationary period is to ensure that an employee who has the potential to be successful in their job has adequate time to do that. Generally, that is between the employee, their supervisor, and HR staff, who would collaborate to develop a specific plan to improve performance during the extended probationary period. Currently, there is often reluctance to extend probationary periods because of the involvement of the CSC, which makes the process subject to public scrutiny, as well as the confusing language in the Code, which indicates that extension of a probationary period constitutes dismissal.

In addition, the period for which a position can be temporarily filled would be extended from 120 days to six months. This would allow more time to fill vacancies or address longer-term absences from work.

In Chapter 5, Section 5-12, language regarding appointment of the director of community development services and the building safety division manager would be repealed. All appointed positions would be addressed in Section 2-42.

In Chapter 25, Section 2-48 concerning appointment of the city arborist would also be repealed.

Fiscal Impact: No salaries will change because of these changes to the City Code so there is no impact on expenditures.

Alternatives:

1. Forward the Ordinance amending the City Code to City Council for approval on August 23, 2021.
2. Forward a revised Ordinance amending the City Code to City Council for approval on August 23, 2021.

Recommendation: Forward the Ordinance amending the City Code to City Council for approval on August 23, 2021.

Attachment: Code Revisions - Markup

CODE REVISIONS - MARKUP

CHAPTER 2. ADMINISTRATION
ARTICLE III. OFFICERS
DIVISION I. GENERALLY

Sec. 2-42. - Appointment.

There may be appointed ~~annually and whenever vacancies occur in such office,~~ by the mayor with the ~~approval advice and consent of the city council,~~ the following officers: ~~administrative officer~~city administrator, ~~budget director~~finance director, city attorney, ~~corporation counsel,~~ chief of police, chief of the fire department, director of public works, director of community development services, deputy finance director, deputy chief of police, deputy chief of the fire department, deputy director of public works, city engineer, ~~administrator~~director of community development services, ~~and human rights and equity officer,~~ ~~director of the light department and such other employees as the mayor and city council may from time to time deem necessary.~~

Sec. 2-43. - Term.

~~The term of office for which any officers of the city shall be appointed shall be for any period of time not exceeding the municipal year of their appointment and in all cases not otherwise provided for by the ordinances of the city or the laws of the state.~~The terms of office and conditions of employment for appointed employees of the City shall be established by the mayor. However, no term of appointment for any appointee shall exceed the appointing mayor's elected term.

CHAPTER 2. ADMINISTRATION
ARTICLE III. OFFICERS
DIVISION 4. FINANCE DIRECTOR

~~Sec. 2-70. — Appointment.~~

~~Annually and whenever vacancies occur in such office, the finance director shall be appointed by the mayor with the advice and consent of the city council.~~

CHAPTER 2. ADMINISTRATION
ARTICLE V. EMPLOYEES

Sec. 2-99. - *Civil service* system.

(1) Officers who are elected by the people, or who are elected by the corporate authorities pursuant to ordinance or law, or whose appointment is subject to confirmation by the corporate authorities, judges of election, ~~heads of any department or division, corporation counsel, city attorney~~, seasonal employees, which means those persons whose employment does not exceed

CODE REVISIONS - MARKUP

two hundred forty (240) work days in any fiscal year, ~~one (1) private secretary of each elected city official, and administrative assistants to the mayor, administrative officer, chief librarian, and~~ all part-time employees, which means those persons who work thirty-five (35) hours or less where the standard work week is forty (40) hours or more per week, ~~city engineers,~~ shall not be included in such classified *service*. No other positions shall be excluded from such classified service.

(2) a. The mayor ~~The appointing authority or their designee (the head of the department or office in which a civil service position is to be filled)~~ shall notify the commission of that fact, and the commission shall certify to the appointing authority a pool of candidates consisting of the names and addresses or all available candidates on the original entry registry for consideration. Alternatively, if there are more than thirty (30) candidates on the register, the appointing authority may request either that the commission limit the pool to the thirty (30) candidates standing highest upon the original entry register or to a pool in excess of thirty (30) candidates if the commission determines that certification of a larger pool would provide a more diverse candidate pool, better serve the needs of the department or office, and/or improve equity. The candidates' names shall be submitted to the appointing authority in alphabetical order and without any indication of ranking of the candidates. The appointing authority may select any candidate referred. If no candidate is found to fully meet the requirements or needs of the available position, the appointing authority may request one or more supplemental lists of certified candidates. The commission shall determine the number of candidates to be referred on a supplemental list. Consistent with the intent of this paragraph, any public posting of an original entry eligibility list, register or list of certified candidates shall be in alphabetical order without any indication of ranking of the candidates. Public posting of such lists shall not be required unless directed by the *civil service* commission or chief examiner.

...

(4) b. Extension of probation ~~or discharge~~.

1. At or before the expiration of the period of probation, the appointing authority may extend the period of probation, but only if both the candidate and the candidate's lawful collective bargaining representative (in cases where the candidate is represented as a member or fair-share dues paying member) agree in writing to such extension, ~~by stating in writing the appointing authority's reason for doing so to the commission. The appointing authority's request for the extension of probation shall simultaneously constitute a discharge of the candidate even though phrased only as a request for extension, and the reasons for an extension of probation shall constitute the reasons for discharge. If the candidate is not then given an extension of probation and is not discharged, the appointment shall be deemed complete, unless the original probationary period has not yet run in which case the probationary period shall continue as though no request for extension had been made.~~

~~2. Where a request for extension has been made but the commission has not made its final decision regarding the request before the expiration of the probationary period, the probationary period shall automatically be extended by thirty days past its expiration date in order to give the commission the opportunity to make its final decision.~~

CODE REVISIONS - MARKUP

32. The cumulative length of the probationary period together with all extensions shall not be more than double the initial period, unless because of the unique circumstances of the candidate, the candidate has not worked at full duty in the position for a period equaling at least the initial period, so that the appointing authority has not had adequate opportunity to evaluate the candidate's performance. Pursuant to 65 ILCS 5/10-1-7(1) the cumulative length of probation of any firefighter appointed to the lowest rank shall not exceed one year unless the position includes paramedic responsibilities.

c. Discharge. At or before the expiration of the period of probation, including any extensions, the appointing authority may discharge the candidate upon stating in writing the appointing authority's reason therefor to the commission. ~~If the candidate is not then discharged, the appointment shall be deemed complete, unless the original probationary period has not yet run in which case the probationary period shall continue as though no request for discharge has been made.~~

(7) To prevent the stoppage of public business, or to meet extraordinary emergencies, the appointing authority may ~~make temporary appointments~~ temporarily fill a position to remain in force not exceeding ~~one hundred twenty (120) days~~ six (6) months, and only until regular appointments under the provisions of *civil service* can be made.

CHAPTER 5. BUILDING, FIRE AND FLOOD SAFETY CODES ARTICLE II. BUILDING OFFICIAL

~~Section 5-12. Appointment.~~

~~The Director of Community Development Services and the Building Safety Division Manager shall be appointed by the Mayor with the advice and consent of the City Council.~~

CHAPTER 25. VEGETATION ARTICLE II. TREES, PLANTS AND SHRUBS DIVISION III. CITY ARBORIST

~~Sec. 25-48.— Appointment.~~

~~The arborist shall be appointed by the mayor with the advice and consent of the city council.~~

ORDINANCE NO. _____

AN ORDINANCE AMENDING CITY CODE CHAPTER 2 (ADMINISTRATION), SECTIONS 2-42 (APPOINTMENT), 2-43 (TERM), 2-70 (APPOINTMENT), 2-99 (CIVIL SERVICE SYSTEM); CHAPTER 5 (BUILDING, FIRE, AND FLOOD SAFETY CODES), SECTION 5-12 (APPOINTMENT); AND CHAPTER 25 (VEGETATION), SECTION 25-48 (APPOINTMENT)

WHEREAS, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and, except as may be specifically pre-empted within a particular state statute, may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, the Mayor and City Council wish to clarify the process for appointing certain staff positions; and,

WHEREAS, the Mayor and City Council wish to promote good government, professional management practices, and a stable work force.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

A. Urbana City Code Chapter 2, “Administration”; Article III, “Officers”; Division I, “Generally”; shall be and hereby is amended to provide as set forth in the title, headings, and text thereof below:

“Sec. 2-42. Appointment.

There may be appointed by the mayor with the advice and consent of the city council, the following officers: city administrator, finance director, city attorney, chief of police, chief of the fire department, director of public works, director of community development services, deputy finance director, deputy chief of police, deputy chief of the fire department, deputy director of public works, city engineer, and human rights and equity officer.

Sec. 2-43. Term.

The terms of office and conditions of employment for appointed employees of the City shall be established by the mayor. However, no term of appointment for any appointee shall exceed the appointing mayor’s elected term.”

B. Urbana City Code Chapter 2, “Administration”; Article III, “Officers”; Division IV, “Finance Director”; shall be and hereby is amended to repeal section 2-70 “Appointment” in its entirety.

C. Urbana City Code Chapter 2, “Administration”; Article V, “Employees”; Section 2-99, “Civil Service System”; Subsections (1) and (2)a.; shall be and hereby are amended to provide as set forth in the title, headings, and text thereof below:

“By exercise of its Home Rule powers, the Urbana City Council declares that those provisions of Division 1, Article 10 of the Illinois Municipal Code that conflict with this ordinance are hereby nullified and the provisions of the ordinance shall govern in the administration of the Civil Service System in the City of Urbana.

- (1) Officers who are elected by the people, or who are elected by the corporate authorities pursuant to ordinance or law, or whose appointment is subject to confirmation by the corporate authorities, judges of election, seasonal employees, which means those persons whose employment does not exceed two hundred forty (240) work days in any fiscal year, all part time employees, which means those persons who work thirty-five (35) hours or less where the standard work week is forty (40) hours or more per week, shall not be included in such classified service. No other positions shall be excluded from such classified service.
- (2) a. The mayor or their designee shall notify the commission of that fact, and the commission shall certify to the appointing authority a pool of candidates consisting of the names and addresses of all available candidates on the original entry registry for consideration. Alternatively, if there are more than thirty (30) candidates on the register, the appointing authority may request either that the commission limit the pool to the thirty (30) candidates standing highest upon the original entry register or to a pool in excess of thirty (30) candidates if the commission determines that certification of a larger pool would provide a more diverse candidate pool, better serve the needs of the department or office, and/or improve equity. The candidates' names shall be submitted to the appointing authority in alphabetical order and without any indication of ranking of the candidates. The appointing authority may select any candidate referred. If no candidate is found to fully meet the requirements or needs of the available position, the appointing authority may request one or more supplemental lists of certified candidates. The commission shall determine the number of candidates to be referred on a supplemental list. Consistent with the intent of this paragraph, any public posting of an original entry eligibility list, register or list of certified candidates shall be in alphabetical order without any indication of ranking of the candidates. Public posting of such lists shall not be required unless directed by the civil service commission or chief examiner.”

D. Urbana City Code Chapter 2, “Administration”; Article V, “Employees”; Section 2-99, “Civil Service System”; Subsections (4)b.1. and (4)b.2.; shall be and hereby are amended to provide as set forth in the title, headings, and text thereof below:

(4) “b. Extension of probation.

1. At or before the expiration of the period of probation, the appointing authority may extend the period of probation, but only if both the candidate and the candidate’s lawful collective bargaining representative (in cases where the candidate is represented as a member or fair-share dues paying member) agree in writing to such extension.

2. The cumulative length of the probationary period together with all extensions shall not be more than double the initial period, unless because of the unique circumstances of the candidate, the candidate has not worked at full duty in the position for a period equaling at least the initial period, so that the appointing authority has not had adequate opportunity to evaluate the candidate’s performance. Pursuant to 65 ILCS 5/10-1-7(1) the cumulative length of probation of any firefighter appointed to the lowest rank shall not exceed one year unless the position includes paramedic responsibilities.”

E. Urbana City Code Chapter 2, “Administration”; Article V, “Employees”; Section 2-99, “Civil Service System”; shall be and hereby is amended to repeal subsection (4)b.3. in its entirety.

F. Urbana City Code Chapter 2, “Administration”; Article V, “Employees”; Subsection (4)c.; shall be and hereby is amended to provide as set forth in the title, headings, and text thereof below:

“c. Discharge. At or before the expiration of the period of probation, including any extensions, the appointing authority may discharge the candidate upon stating in writing the appointing authority’s reason therefor to the commission.”

G. Urbana City Code Chapter 2, “Administration”; Article V, “Employees”; Section 2-99, “Civil Service System”; Subsection (7); shall be and hereby is amended to provide as set forth in the title, headings, and text thereof below:

(7) “To prevent stoppage of public business, or to meet extraordinary emergencies, the appointing authority may temporarily fill a position to remain in force not exceeding six (6) months, and only until regular appointments under provisions of civil service can be made.”

H. Urbana City Code Chapter 5, “Building, Fire and Flood Safety Codes”; Article II, “Building Official”; shall be and is hereby amended to repeal Section 5-12, “Appointment” in its entirety.

I. Urbana City Code Chapter 25, “Vegetation”; Article II, “Trees, Plants and Shrubs”; shall be and hereby is amended to repeal section 25-48 “Appointment” in its entirety.

Section 2.

Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 3.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 4.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSTENTIONS:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Diane Wolfe Marlin, Mayor