

RESOLUTION NO. _____

**RESOLUTION OVERRIDING MAYOR'S VETO, PASSING AGAIN
AND DIRECTING IMMEDIATE PUBLICATION OF ORDINANCE AMENDING
APPOINTMENT AND REMOVAL POWERS IN TITLE 1, CHAPTERS 1-4 AND 6-9,
AND TITLE 6, CHAPTER 1; AND ADDING CHAPTERS 11 AND 12 TO TITLE 2**

WHEREAS, on August 18, 2016 at its Regular City Council meeting, City Council approved on final reading the ordinance amending appointment and removal powers in Title 1, Chapters 1-4 and 6-9, and Title 6, Chapter 1; and adding Chapters 11 and 12 to Title 2 and directed for its publication as required by law; and

WHEREAS, at said meeting, the Mayor indicated she would be vetoing said ordinance as adopted by City Council; and

WHEREAS, on September 1, 2016 the Mayor vetoed said ordinance and provided a written explanation which will be kept in the city's public documents; and

WHEREAS, per City Council Rule Chapter 5.7(C), City Council within thirty (30) days after the Mayor's veto may pass the measure again by a vote of not less than two-thirds (2/3) of the Councilmembers; and

WHEREAS, if City Council repasses the measure after the Mayor's veto, said ordinance amendment becomes a law when published.

NOW, THEREFORE, BE IT RESOLVED that the Mayor's veto of the abovementioned ordinance be overridden, the ordinance passed again, and direction given to immediately publish the ordinance as required by law.

PASSED, APPROVED, AND ADOPTED THIS 1st DAY OF SEPTEMBER, 2016.

Diana L. Broderson, Mayor

ATTEST:

Gregg Mandsager, City Administrator

ORDINANCE NO _____

AN ORDINANCE AMENDING APPOINTMENT AND REMOVAL POWERS IN TITLE 1, CHAPTER 11, TITLE 2, CHAPTERS 1, 2, 3, 4, 6, 7, 8, AND 9, TITLE 6, CHAPTER 1; AND ADDING CHAPTERS 11 AND 12 TO TITLE 2

BE IT ORDAINED by the City Council of the City of Muscatine, Iowa, as follows:

SECTION 1. Municipal Code Title I, Chapter 11, Section 2 Department Heads; Appointment and Removal is hereby amended as follows:

1-11-2 Department Heads; Appointment and Removal. The departments shall be headed by a Department Head appointed and removed by the City Administrator, except the appointment and removal of the Police Chief, the Fire Chief, and the Finance Director-Treasurer, which shall be subject to the approval of the City Council.

All appointments shall be made to individuals with sufficient qualifications to perform the general duties of the office at a salary in accordance with the City's Pay Plan.

SECTION 2. Municipal Code Title 2, Chapter 1, Section 3 Appointment is hereby amended as follows:

2-1-3 Appointment. The members are to be appointed by City Council.

SECTION 3. Municipal Code Title 2, Chapter 1, Section 7 Removal-Vacancies is hereby amended as follows:

2-1-7 Removal - Vacancies. The Council may, at any time, remove any member of the Airport Advisory Commission after showing due cause, and shall fill the vacancies occurring in the Commission by removal or otherwise.

SECTION 4. Municipal Code Title 2, Chapter 2, Section 5 Appointment is hereby amended as follows:

2-2-5 Appointment. The members are to be appointed by City Council.

SECTION 5. Municipal Code Title 2, Chapter 2, Section 6 Term Duration is hereby amended as follows:

2-2-6 Term Duration. The term of office of such members shall commence with their appointment. Commissioners shall hold office, one until the first Monday in April of the second year, one until the first Monday in April of the third year, and one until the first Monday in April

of the fourth year after such appointment, whose successors shall be appointed for a term of four years. All Commissioners shall remain on the Commission until their successors are appointed.

SECTION 6. Municipal Code Title 2, Chapter 2, Section 9 Vacancies is hereby amended as follows:

2-2-9 Vacancies. The City Council shall fill the vacancies occurring in the Commission for the unexpired term of the appointment.

SECTION 7. Municipal Code Title 2, Chapter 3, Section 3 Appointment is hereby amended as follows:

2-3-3 Appointment. The members are to be appointed by City Council.

SECTION 8. Municipal Code Title 2, Chapter 3, Section 4 Term Duration and Limits is hereby amended as follows:

2-3-4 Term Duration and Limits.

- A. Duration. The Parks and Recreation Advisory Commission shall consist of seven (7) members to be appointed by the City Council. The term of office of such members shall commence with their appointment and shall be for three (3) years, except to fill vacancies provided, however, that appointments to the first Commission shall be three (3) members for one (1) year, three (3) members for two (2) years and one (1) member for three (3) years. Each term shall commence on the first day of July. All members of the Parks and Recreation Advisory Commission shall remain on the Commission until their successors are appointed.
- B. Limits. No individual shall serve more than two (2) full consecutive terms on the Parks and Recreation Advisory Commission.

SECTION 9. Municipal Code Title 2, Chapter 3, Section 5 Removal-Vacancies is hereby amended as follows:

2-3-5 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

SECTION 10. Municipal Code Title 2, Chapter 4, Section 4 Appointment and Terms is hereby amended as follows:

2-4-4 Appointment and Terms. The Commission shall consist of five (5) gender balanced members to be appointed by the City Council. The term of office of such members shall commence with their appointment. Appointments will be staggered, with one member appointed on July 1 of each year over a five-year period. All terms shall be for five (5) years. All members of the Commission shall remain on the Commission until their successors are appointed. No one individual shall serve for more than two (2) full consecutive terms on the Commission.

SECTION 11. Municipal Code Title 2, Chapter 4, Section 5 Removal/Vacancies is hereby amended as follows:

2-4-5 Removal/Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

SECTION 12. Municipal Code Title 2, Chapter 6, Section 3 Appointment is hereby amended as follows:

2-6-3 Appointment. The Trustees are to be appointed by the City Council.

SECTION 13. Municipal Code Title 2, Chapter 6, Section 6 Removal-Vacancies is hereby amended as follows:

2-6-6 Removal - Vacancies. The Council may, at any time, remove any member of the Art Center Board of Trustees after showing due cause, and shall fill the vacancies occurring in the Commission by removal or otherwise. A trustee absent for three (3) consecutive regular meetings of the Board, except in a case of sickness or temporary absence from the City, shall render the office of such absent trustee vacant.

SECTION 14. Municipal Code Title 2, Chapter 7, Section 4 Appointment is hereby amended as follows:

2-7-4 Appointment. The members are to be appointed by the City Council.

SECTION 15. Municipal Code Title 2, Chapter 7, Section 6 Removal-Vacancies is hereby amended as follows:

2-7-6 Removal - Vacancies. The Council may, at any time, remove any member of the Commission after showing due cause, and shall fill the vacancies occurring on the Commission by removal or otherwise.

SECTION 16. Municipal Code Title 2, Chapter 8, Section 3 Appointment is hereby amended as follows:

2-8-3 Appointment. The members are to be appointed by the City Council.

SECTION 17. Municipal Code Title 2, Chapter 8, Section 6 Removal-Vacancies is hereby amended as follows:

2-8-6 Removal - Vacancies. Members of the Board of Water, Electric and Communications Trustees may be removed in accordance with the Chapter 372.15 of the Iowa Code. The Council shall fill the vacancies occurring on the Board by removal or otherwise.

(Iowa Code, Section 372.15)

SECTION 18. Municipal Code Title 2, Chapter 9, Section 3 Appointment is hereby amended as follows:

2-9-3 Appointment. The members are to be appointed by the City Council.

SECTION 19. Municipal Code Title 2, Chapter 9, Section 6 Removal-Vacancies is hereby amended as follows:

2-9-6 Removal - Vacancies. The Council may, at any time, remove any member of the Zoning Board of Adjustment after showing due cause, and shall fill the vacancies occurring on the Board by removal or otherwise.

SECTION 20. Municipal Code Title 6, Chapter 1, Section 6 Peace Officers Appointed is hereby amended as follows:

6-1-6 Peace Officers Appointed. The City Administrator shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The Police Chief shall select the other members of the Department.

SECTION 21. Municipal Code Title 6, Chapter 1, Section 8 Duties of Police Chief is hereby amended as follows:

6-1-8 Duties of Chief of Police. The Police Chief has the following powers and duties subject to the approval of the Council.

(Code of Iowa, Sec. 372.13 [4])

- A. General. Perform all duties required of the Police Chief by law or ordinance.
- B. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
- C. Writs. Execute and return all writs and other processes directed to the Police Chief.
- D. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.
- E. (Code of Iowa, Sec. 321.266)
- F. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
- G. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.
- H. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
- I. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.
- J. Reports. Compile and submit to the City Administrator and Council an annual report as well as such other reports as may be requested by the City Administrator or Council.
- K. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

SECTION 22. Municipal Code Title 2, Boards and Commissions, is hereby amended by adding Chapter 11, Council Appointments to City Administrative Boards, to the Title as set forth in the attached Exhibit A.

SECTION 23. Municipal Code Title 2, Boards and Commissions, is hereby amended by adding Chapter 12, Annual Organizational Meeting for Appointments, to the Title as set forth in the attached Exhibit B.

SECTION 24. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 25. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 26. WHEN EFFECTIVE. This ordinance shall be effective from and after its final passage, approval and publication as provided by law.

Passed and approved by the Muscatine City Council of this ____ day of _____, ____.

Mayor

ATTEST:

City Clerk

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, ____.

City Clerk

1st Reading – _____, 20__

Motion by Council Member _____, seconded by Council Member _____, to adopt the first reading of Ordinance No. ____.

AYES:

NAYS:

ABSENT:

2nd Reading – _____, 20__

Motion by Council Member _____, seconded Council Member by _____, to approve the second reading of Ordinance No. ____.

AYES:

NAYS:

ABSENT:

3rd Reading – _____, 20__

Motion by Council Member _____, seconded by Council Member _____, to approve the third reading of Ordinance No. ____.

AYES:

NAYS:

ABSENT:

The Mayor declared Ordinance No. ____ adopted.

TITLE 2 – Boards and Commissions

CHAPTER 11- Council Appointments to City Administrative Boards

SECTIONS:

2-11-1 Scope

2-11-2 Appointment of Members

2-11-1 Scope. The City Council is represented on a number of boards, commissions, committees, and groups. These include ad hoc committees, policy committees, intergovernmental bodies, and various organizations in the community. Such representation is distinct from formal appointments to Boards and Commissions as provided in Title 2, Chapters 1-10 of this Code of Ordinances. As such, this section is intended to address City representation on these various boards, commissions, committees, and groups, and not representation on Boards and Commissions as set forth in Title 2, Chapters 1-10. For purposes of this Chapter, these boards, commissions, committees, and groups - where the City has a City Representative - will be collectively referred to as City Administrative Boards.

2-11-2 Appointment of Members. Except as otherwise specifically provided by state statute or as determined by the by laws of the outside agency, all members of the Administrative Boards shall be appointed and approved by the City Council. The City Clerk shall notify the City Council of the expiration of terms of office of any member of any Administrative Board as provided in section 2-12-1 of this Code. When a vacancy occurs by resignation, death, or other termination of service, the City Clerk shall provide the notice to the City Council as soon as the City Clerk is made aware of the vacancy, and City Council shall fill said vacancy as soon as practicable.

TITLE 2 – Boards and Commissions

CHAPTER 12 - Annual Organizational Meeting for Appointments

2-12-1 City Clerk to Maintain Listing

2-12-2 Organizational Meeting

2-12-1 Clerk to Maintain Listing. An alphabetical listing of all Boards, Commissions, and Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11, shall be compiled and maintained by the City Clerk. Such listing shall include the number and identity of members comprising each Board, Commission, or Committee, as the case may be, and the date each term of office expires. No later than 90 days before the end of each calendar year, the City Clerk shall prepare, from the alphabetical listing of all Boards, Commissions, or Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11, a roster of all terms of office expiring within the next calendar year.

2-12-2 Organizational Meeting. The City Council shall hold an organizational meeting at the first regular meeting in January wherein the City Council shall review upcoming vacancies on Boards, Commissions, and Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11. At the Council's choosing, the Council may elect to continue the Organizational meeting to a later date, or may schedule additional meetings as needed. If the meeting is continued or other meetings are held on an as needed basis, the Council shall refer the list of vacancies to be considered at the later meeting to the Nominating Committee in a timely manner in order that the Committee may prepare a slate of candidate(s) in advance of the full Council's meeting. If the Nominating Committee has already presented a slate of candidates for a particular vacancy, it may affirm its previous slate or may present a new slate for the full Council's consideration. All vacancies shall be filled as provided by the rules governing appointments to the respective Boards, Commissions, and Committees, including Ad-Hoc Committees as defined by Title 2, Chapter 10, and City Administrative Boards as defined by Title 2, Chapter 11.