

If the Council determines to fill the vacancy by appointment and is unable to make an appointment within forty-five days of the Council declaring a vacancy, the Council's power to appoint is terminated and the Council shall call a special election pursuant to Charter Section [303\(C\)\(2\)](#).

(4) *Exception When Appointment Would Result in Majority of Appointed Councilmembers.* Notwithstanding any other provision to the contrary in Charter Section [303\(C\)](#), if an appointment would result in a majority of the members serving on the City Council being appointed, the Council shall not fill the vacancy by appointment; rather: (a) where the vacancy is for a remaining term of one year or less, the office shall remain vacant; and (b) where the vacancy is for a remaining term of more than one year but less than twenty-five months, the Council shall call a special election to fill the office in accordance with Charter Section [303\(C\)\(2\)](#).

(5) *Future Election of Appointee to Elected Office.* Any person who is appointed by the Council to fill the office of Councilmember or Mayor as provided in Charter Section [303\(C\)](#), may not seek nomination and election to said offices of Councilmember or Mayor until a period of one year from the termination of the appointed term has elapsed. Said appointee shall be eligible to seek nomination and election for two full terms thereafter.

(6) *Mail Ballot Only Option in Case of Special Election.* If a vacancy in the office of an Elected Official is to be filled utilizing a special election that is not consolidated with a scheduled federal, State or local polling place election, the City Council may authorize such election to be conducted wholly by mail ballot.

Sec. 304. Presiding Officer, Mayor.

(A) *Duties.* The Mayor shall be a member of the City Council and shall perform all the functions and have all the powers and rights of a duly elected Councilmember. In addition to said powers and duties, the Mayor shall have the power and duty:

- (1) to report to the City Council annually on the affairs of the City and to recommend for its consideration such matters as the Mayor deems appropriate;
- (2) to be the official head of the City for all political and ceremonial purposes and, in the name and on behalf of the City, to sign all legal instruments and documents to which the City is a party except where otherwise provided herein or by applicable law, ordinance, or resolution, minute action, or order of the Council;
- (3) to take command of the police, maintain order, and enforce the law during a time of extreme public danger or emergency, with the consent of the Council, and for such period as the council may fix, with the advice and support of the City Manager and City Attorney;
- (4) to assume the primary, but not the exclusive responsibility, for describing to the people the policies, programs and needs of the City government and for informing the people of any major change in policy or program. The Mayor may represent the City in any and all matters involving other governmental agencies, provided that no act, promise, commitment or agreement entered into or committed by the Mayor shall be binding upon the City unless duly authorized or ratified by the City Council;

- (5) to represent the City in all regional public agencies which require an elected City official, unless otherwise determined by the City Council;
- (6) to supervise the operation of the mayor/council office and personnel assigned thereto;
- (7) to perform such other duties consistent with the office as may be prescribed by this Charter or delegated to the Mayor or imposed on the Mayor by the City Council if not inconsistent with the provisions of this Charter; and
- (8) to exercise the full-time function as Mayor of the City during the usual business hours that the offices of the City are open, and such other hours and times as shall be necessary to discharge in full the duties imposed upon the Mayor.

(B) *Compensation.* The Mayor shall receive an annual salary equivalent to 66% of the salary of a Judge of the Superior Court of the State. The Mayor shall also be entitled to receive reimbursement for Council-authorized and budgeted travel and other expenses when on official duty out of the City consistent with City policies. The City Council may also provide, by resolution, for the payment to the Mayor of an allowance of a sum certain per month, as reimbursement for the additional demands and expenses made upon and incurred by the Mayor.

(C) *Deputy Mayor.* The Mayor shall designate, subject to the approval of the City Council, a City Councilmember to serve as Deputy Mayor, who shall serve in such capacity at the pleasure of the City Council. The Deputy Mayor shall perform the duties of the Mayor during the Mayor's absence or disability.

Sec. 305. Limitations on Authority.

(A) *Prohibition on Undue Influence.* No member of the Council shall, directly or indirectly, by suggestion or otherwise, attempt to unduly influence the City Manager or other officer appointed or confirmed by the Council in their performance of duties.

(B) *Prohibition on Certain Administrative or Executive Functions.* The Mayor and the Councilmembers are hereby individually and collectively prohibited from performing any administrative or executive functions except as same may be authorized by this Charter or by ordinance of the City. Neither the City Council nor any of its members shall order or request of the City Manager, or any other officer or employee, the appointment of any person to any position of employment within the City, or the removal of any person from employment, with the City.

(C) *Prohibition on Giving Orders to Subordinates of the City Manager.* Except for the purpose of inquiry, the Council and its members shall deal with that part of the administrative service for which the City Manager is responsible solely through the City Manager, and neither the City Council nor any member shall give orders to any subordinates of the City Manager, either publicly or privately.

(D) *Penalties for Violation.* A violation of the provisions of this Charter Section [305](#) by any member of the Council shall constitute misconduct for which the offending member may be censured or removed from office by the Council.