



TOWN OF FAIRFAX

STAFF REPORT

June 16, 2021

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Receive report comparing current municipal code regarding the duties and responsibilities of the Town Manager to the previous code for Town Administrator

RECOMMENDATION

Receive the report.

DISCUSSION

In 2005, pursuant to Ordinance No. 712, the office of Town Manager was established by the Town Council, replacing the office of Town Administrator. The Town Code was amended to reflect this change and amended again in 2006 and 2009 to what it is today.

The differences between the two offices are minor and can be seen in their entirety in redline in the attached excerpt of Town Code. These changes include the removal of two provisions from the prior Code (the bond requirement and the mileage reimbursement at a rate of 10 cents per mile) and the addition of the two provisions below to the current Code:

2.12.070 POWERS AND DUTIES

“Subsection B (3) Appointment and Removal

“...and provided further, that after the Town Manager has served in that position for 12 months, the Town Council may, by resolution, eliminate the requirement for such ratification and vest the power to appoint, remove or demote department heads in the Town Manager, and provided further, that when required, the final vote to ratify the appointment, removal or demotion of a department head shall be done in an open session of the Town Council”

2.12.080 COUNCIL MANAGER RELATIONS

“...The Town Manager shall take his or her orders and instructions from the Town Council only when sitting in a duly held meeting of the Town Council and no individual Council member shall give any orders or instructions to the Town Manager. No individual Council member shall give any orders or instructions to the Town Manager, except the Mayor or Vice Mayor, or Acting Mayor in the case of emergency.”

In essence, the primary differences between the Town Manager and Town Administrator are: 1) the Town Council may allow the Town Manager to appoint/remove departments heads without ratification by the Council and 2) no one Councilmember can direct the Town Manager. Otherwise, the duties and responsibilities of the Town Manager and Town Administrator are the same.

FISCAL IMPACT

n/a

ATTACHMENT: Redline comparison of the two ordinances

~~Prior~~Current Town Code

CHAPTER 2.12: TOWN ADMINISTRATOR/MANAGER

Sections:

~~2.08.010~~ — Section

2.12.010 ~~Office established.~~

2.12.020 ~~2.08.020~~ — ~~Appointment~~ Term; term

2.12.030 ~~2.08.030~~ — ~~Residency requirement.~~

2.12.040 ~~2.08.040~~ — ~~Eligibility of Council members.~~

2.12.050 ~~2.08.050~~ — ~~Bond required.~~

~~2.08.060~~ — Pro Tempore Town administrator/Manager

2.12.060 ~~2.08.070~~ — ~~Compensation.~~

2.12.070 ~~2.08.080~~ — ~~Powers and duties.~~

2.12.080 ~~2.08.090~~ — ~~Exclusive control over administrative services.~~

~~2.08.100~~ — Council Manager relations

2.12.090 ~~Duty to assist Town administrator/Manager~~

2.12.100 ~~2.08.110~~ — ~~Suspension~~ Removal; removal

~~§ 2.08.120~~ — ~~Exclusion from civil service.~~

2.0812.010 OFFICE ESTABLISHED.

The Office of Town ~~administrator/~~Manager of the town is created and established. ~~(Prior code § 2-85)~~

~~(Prior Code, § 2.08.010)~~ (Am. Ord. 712, passed 7-6-2005)

§ 2.12.020 ~~Appointment~~ APPOINTMENT; TERM.

(A) The Town ~~administrator/~~Manager shall be appointed by the Town Council solely on the basis of his or her executive and administrative qualifications and ability.

(B) He or she shall hold office at and during the pleasure of the Town Council, subject to the provisions of § 2.12.100 ~~Section 2.08.110.~~ ~~(Prior code § 2-86).~~

~~(Prior Code, § 2.08.020)~~ (Am. Ord. 712, passed 7-6-2005)

§ 2.12.030 RESIDENCY REQUIREMENT.

(A) Residency in the Town of Fairfax, at the time of appointment of the Town ~~administrator/~~Manager, shall not be required as a condition of appointment or service.

(B) The Town ~~administrator/~~Manager shall be required to be a resident of the County of Marin.

~~(Prior Code, § 2.08.030)~~ (Ord. 438-~~§ 1-~~, passed - -1978: ~~prior code § 2-87;~~ Am. Ord. 712, passed 7-6-2005)

§ 2.0812.040 ELIGIBILITY OF COUNCIL MEMBERS.

No person elected to membership on the Town Council shall, subsequent to ~~such~~the election, be eligible for appointment to the Office of Town ~~administrator~~Manager until at least one year has elapsed after he or she has ceased to be a member of the Town Council.

(Prior Code ~~§ 2-88~~, § 2.08.040) (Am. Ord. 712, passed 7-6-2005)

§ 2.0812.050 ~~Bond required~~ PRO TEMPORE TOWN MANAGER.

~~The town administrator shall furnish a corporate surety bond to be approved by the town council in such sum as may be determined by the council and conditioned upon the faithful performance of the duties imposed upon the town administrator as prescribed in this chapter. Any premium for such bonds shall be a proper charge against the town. (Prior code § 2-89)~~

2.08.060 Pro tempore town administrator.

~~The town administrator~~ The Town Manager shall designate, subject to the approval of the Town Council, one of the other officers or department heads of the town to serve as Town ~~administrator~~Manager Pro Tempore during the temporary absence or disability of the Town ~~administrator~~Manager. In case of the absence or disability of the Town ~~administrator~~Manager and his or her failure to so designate ~~an administrator~~a Manager Pro Tempore, the Council may designate some duly qualified person to perform the duties of the Town ~~administrator~~Manager during the period of absence or disability of ~~such town administrator~~the Town Manager, subject, however, to ~~such~~the person furnishing a corporate surety bond conditioned upon faithful performance of the duties required to be performed as set forth in this chapter.

~~forth in this chapter.~~ (Prior Code, § 2-90)

2.08.070 ~~Compensation~~.060 (Am. Ord. 712, passed 7-6-2005)

§ 2.12.060 COMPENSATION.

The Town ~~administrator~~Manager shall receive ~~such~~the compensation and expense allowances as the Town Council shall, from time to time, fix and determine by resolution; ~~provided, however, that unless otherwise,~~

~~provided by resolution the town administrator shall be reimbursed at the rate of ten cents per mile for the use of any automobile which he is required to use.~~ (Prior Code, § 2-91)

2.08.080 ~~Powers and duties~~.070 (Am. Ord. 712, passed 7-6-2005)

§ 2.12.070 POWERS AND DUTIES.

(A) The Town ~~administrator~~Manager shall be the administrative head of the government of the town under the direction and control of the Town Council, except as otherwise provided in this chapter. He or she shall be responsible for the efficient administration of all the affairs of the town which are under his or her control. ~~In addition to his~~

(B) ~~In addition to his or her~~ general powers as administrative head, and not as a limitation thereon, it shall be his or her duty and he or she shall have the powers set forth in the following ~~subsections~~divisions:

~~_____A. (1) Enforcement of laws.~~ To see that all laws and ordinances of the town are duly enforced and that all franchises, permits and privileges granted by the town are faithfully observed;

~~_____B. (2) Control of officers and employees.~~ To control, order and give directions to all heads of departments, and to subordinate officers and employees of the town through their department heads; transfer employees from one department to another; and consolidate or combine offices, positions, departments or units under his or her direction;

~~_____C. (3) Appointment and removal of certain officers.~~ Subject to, and in accordance with, civil service and town personnel ordinances and regulations, to appoint, remove and demote any appointive officers and employees, except the Town Attorney; provided, however, that the appointment, removal or demotion of department heads shall require ratification by the Town Council, and provided further, that after the Town Manager has served in that position for 12 months, the Town Council may, by resolution, eliminate the requirement for such ratification and vest the power to appoint, remove or demote department heads in the Town Manager, and provided further, that when required, the final vote to ratify the appointment, removal or demotion of a department head shall be done in an open session of the Town Council;

~~_____D. (4) Representation of town.~~ To represent the town in its negotiations and working relationships with the state, the county and other governmental jurisdictions; provided, that any contracts negotiated for the exchange of services from any such other governmental jurisdiction shall be subject to approval by the Town Council;

~~town council;~~

~~_____E. (5) Attendance at Council meetings.~~ To attend all meetings of the Town Council unless excused therefrom by the Council;

~~_____F. (6) Recommend ordinances.~~ To recommend to the Town Council, for adoption ~~such, the~~ measures or ordinances as he or she deems necessary or expedient;

~~_____G. (7) Advise as to finances.~~ To keep the Town Council, at all times, fully advised as to the financial condition and needs of the town;

~~_____H. (8) Preparation of budget.~~ To prepare and submit the proposed annual budget and the proposed salary plan to the Town Council for its approval;

~~_____I. (9) Purchase of supplies.~~ Subject to and in accordance with the town purchasing ordinance, to direct and supervise the purchase and acquisition in any lawful manner of all property, equipment, services, materials and supplies for the town and for all departments and divisions thereof; provided, the purchase or acquisition thereof has been approved by the Town Council or is included in a budget which has been approved and adopted by the Town Council; (No expenditure shall be submitted or recommended to the Town Council, except on report or approval of the Town Manager.)

~~which has been approved and adopted by the town council. No expenditure shall be submitted or recommended to the town council except on report or approval of the town administrator;~~

~~_____J. (10) Investigation of town affairs.~~ To make investigations into the affairs of the town or any department or division thereof and any contract for the proper performance of any obligations running to the town;

~~_____K. (11) Investigation of complaints.~~ To investigate all complaints in relation to matters concerning the administration of the town government and in regard to services maintained by public utilities in the town and to see that all franchises, permits and privileges granted by the town are faithfully performed and observed;

~~_____L. (12) Supervision of public property.~~ To exercise general supervision over all public buildings, public parks and all other public property which is under the control and jurisdiction of the Town Council;

~~_____M. (13) Devotion of entire time to duties.~~ To devote full time to the duties of his or her office and the interests of the town;

~~_____N. (14) Performance of delegated duties.~~ To perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance or resolution or other action of the Town Council; and

~~_____O. (15) Attendance at commission and board meetings.~~ To attend all meetings of any commissions or boards heretofore or hereafter created by the Town Council upon his or her own volition or upon direction of the Town Council. At any such meetings which he or she attends, the Town ~~administrator~~Manager shall be heard by ~~such~~the commissions and boards as to all matters upon which he or she wishes to address them.
(Prior code § 2-92)

~~2.08.090 Exclusive control over administrative services.~~ (Prior Code, § 2.08.080) (Am. Ord. 712, passed 7-6-2005 ; Am. Ord. 718, passed 11-1-2006; Am. Ord. 744, passed 7-1-2009)

§ 2.12.080 COUNCIL MANAGER RELATIONS.

~~_____~~ The Town Council and its members shall deal with the administrative services of the town only through the Town ~~administrator~~Manager, except for the purpose of inquiry, and neither the Town Council nor any member thereof shall give orders to ~~the any~~ subordinates of the Town ~~administrator.~~ (Prior code § 2-93)Manager. The Town Manager shall take his or her orders and instructions from the Town Council only when sitting in a duly held meeting of the Town Council and no individual Council member shall give any orders or instructions to the Town Manager. No individual Council member shall give any orders or instructions to the Town Manager, except the Mayor or Vice Mayor, or Acting Mayor in the case of emergency

~~2.08.100 Duty to assist town administrator.~~ (Am. Ord. 712, passed 7-6-2005)

§ 2.12.090 DUTY TO ASSIST TOWN MANAGER.

~~_____~~ It is the duty of all subordinate officers and the Town Attorney to cooperate with and assist the Town ~~administrator~~Manager in administering the affairs of the town most efficiently, economically and harmoniously so far as may be consistent with their duties as prescribed by the laws and ordinances of the town. (Prior code § 2-94)

~~2.08.110 Suspension Removal.~~

~~_____~~ (Prior Code, § 2.08.100) (Am. Ord. 712, passed 7-6-2005)

§ 2.12.100 SUSPENSION; REMOVAL.

~~__ (A-) __~~ Removal or suspension of the Town ~~administrator~~Manager shall be only by the affirmative votes of at least three members of the Town Council at a regular meeting of the Council.

~~__ (B-) __~~ The Town ~~administrator~~Manager shall not be removed from office during or within a period of ~~ninety~~90 days next succeeding any general municipal election held in the town at which election a member of the Town Council is elected. The purpose of this provision is to allow any newly elected member to the Town Council, or a reorganized Town Council, to observe the actions and ability of the Town ~~administrator~~Manager in the performance of the powers and duties of his or her office. After the expiration of ~~such ninety~~the 90-day period aforementioned, the provisions of ~~subsection division (A of this section)~~ above as to the removal of the Town ~~administrator~~Manager shall apply and be effective. ~~(Prior code § 2-95)~~

~~**2.08.120 Exclusion from civil service.**~~

~~(Prior Code, § 2.08.110) (Am. Ord. 712, passed 7-6-2005)~~

~~**§ 2.12.110 EXCLUSION FROM CIVIL SERVICE.**~~

~~__~~ The Office of the Town ~~administrator~~Manager is specifically excluded from the civil service or personnel system of the town, and the Town ~~administrator~~Manager shall not be entitled to the benefits, advantages or protection of ~~such the~~ civil service or personnel system of the town. He or she shall not be subject to the procedures outlined or prevailing in ~~such the~~ system.

~~(Prior Code, § 2-96)-.08.120) (Am. Ord. 712, passed 7-6-2005)~~