

FIRST READING 8-10-10
2ND READING 8-17-10
INDEX NO. _____

ORDINANCE NO. 12424

AN ORDINANCE TO AUTHORIZE A REFERENDUM TO AMEND CERTAIN PROVISIONS WITHIN TITLE 3 AND TITLE 13 OF THE CHARTER OF THE CITY OF CHATTANOOGA, AND ALL ACTS, ORDINANCES, AND OTHER CHARTER PROVISIONS AMENDATORY THEREOF, PURSUANT TO THE PROVISIONS OF ARTICLE XI, SECTION 9, OF THE CONSTITUTION OF THE STATE OF TENNESSEE, TO MAKE CERTAIN CHANGES TO THE DISCIPLINARY APPEALS PROCEDURES FOR RIGHTS OF POLICE OFFICERS, FIREFIGHTERS, AND EMPLOYEES OF THE CITY OF CHATTANOOGA RELATIVE TO THE ADMINISTRATIVE PROCEDURES FOR EMPLOYEE DISCIPLINARY APPEALS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE:

SECTION 1. That the present Charter of the City of Chattanooga, and all Acts and Ordinances amendatory thereof, be and is hereby amended as follows:

That Section 3.79 of the Charter, which currently provides:

Sec. 3.79. Discharge and appeal therefrom.

All officers, agents and employees whose employment and employment rights are not otherwise specifically governed in this Charter, whether the same be under the administrative and executive branch, or under the legislative or judicial branches, shall be subject to discharge by the authority which appointed them, but any such officer, agent, or employee so discharged shall have the right of appeal of any disciplinary discharge.

The city council is authorized to establish from among its members a committee or committees to hear such appeals or, if no such committees are established, shall hear such appeals itself. The committees shall have the right to determine whether such discharge shall be effective, the discharged person be reinstated or to otherwise modify the order of discharge. The committees shall consist of no less than three members of the city council.

shall be deleted in its entirety and substitute in lieu thereof the following:

Sec. 3.79. Dismissal, suspension or demotion and appeal therefrom.

All officers, agents and employees whose employment and employment rights are not otherwise specifically governed in this Charter, whether the same be under the administrative and executive branch, or under the legislative or judicial branches, shall be subject to dismissal, suspension or demotion by the authority which appointed them, but any such officer, agent, or employee so dismissed, suspended or demoted shall have the right of appeal of any disciplinary action to the extent provided by Ordinance.

The city council is authorized to establish administrative procedures to provide a fair and impartial method to hear such appeals. The administrative body or judge established by these administrative procedures shall have the right to determine whether such dismissal, suspension or demotion shall be effective, the employee should be reinstated or to otherwise modify the order of dismissal, suspension or demotion. As used herein, the term "hearing body or judge" shall mean the person or persons duly established by Ordinance of the City Council to conduct appeal hearings.

FOR THE AMENDMENT { }

AGAINST THE AMENDMENT { }

SECTION 2. BE IT FURTHER ORDAINED, That the present Charter of the City of Chattanooga, and all Acts and Ordinances amendatory thereof, be and is hereby amended as follows:

That Section 13.49 of the Charter, which currently provides:

Sec. 13.49. Same-Hearing.

Any fireman or policeman who is discharged, suspended, or laid off and who claims that such discharge, suspension, or lay off, was made for political or religious reasons, or otherwise in violation of the provisions of this Act [chapter], may request, and shall have the right to have a hearing before the committee, and such employee, or employees will have the right to have witnesses subpoenaed for such hearing without discrimination, or coercion being used against them for serving as witnesses in such hearing. A copy of said request shall be furnished to the department head. Said committee shall, within fifteen (15) days after said appeal, set a time and place for a hearing. Upon such hearing both the employee and his superior authority whose action is reviewed shall have the right to appear at the hearing and plead his cause in person or by counsel; and the right to present proof. The mayor shall have the right and duty to administer oaths, subpoena witnesses, compel the production of books and papers pertinent to any hearing, and shall have the right to file proceedings in the circuit court of Hamilton County for appropriate action for contempt against any person failing or refusing to answer or obey a summons, and to give and produce testimony before said board. Any person who shall

fail to appear in response to a subpoena or to answer any questions or produce any books or papers pertinent to any such proceeding or proceedings, or hearing or who shall knowingly give false testimony in connection therein shall be guilty of a misdemeanor.

The hearing may be private or public, in the discretion of the committee. If the committee finds that the employee was discharged, suspended, or laid off for a political or a religious motive, or in violation of the provisions of this Act, the appealing employee shall be reinstated without loss of faith. The committee shall have the duty and power to affirm, reverse, set aside or modify the order of discharge, suspension or layoff, as theretofore made by the superior officer of such employee. Any and all employees discharged, or suspended in the event that such employee or employees are proven innocent of said charges by the committee or any other of the courts will be reinstated at his position he held when charges were made, with full retroactive pay for the time lost. A copy of the order of the committee shall be furnished to the proper city official. In the event said order directs the reinstatement of said employee, or retroactive pay, it shall be the ministerial duty of the cognizant officials of the City of Chattanooga to comply with the terms thereof. As used herein, the term "committee" shall mean the committee which the city council is authorized to establish, or if no such committee is established, it shall mean the city council, itself.

shall be deleted in its entirety and substitute in lieu thereof the following:

Sec. 13.49. Same-Hearing.

Any fireman or policeman who is discharged, suspended, or laid off and who claims that such discharge, suspension, or lay off, was made for political or religious reasons, or otherwise in violation of the provisions of this Act [chapter], may request, and shall have the right to have a hearing as established by the administrative procedures authorized by the City Council, and such employee, or employees will have the right to have witnesses subpoenaed for such hearing without discrimination, or coercion being used against them for serving as witnesses in such hearing. A copy of said request shall be furnished to the department head. Said administrative procedures shall require that a time and place for the hearing be set within fifteen (15) days after said appeal. Upon such hearing both the employee and his superior authority whose action is reviewed shall have the right to appear at the hearing and plead his cause in person or by counsel; and the right to present proof. The administrative hearing body or judge shall have the right and duty to administer oaths, subpoena witnesses, compel the production of books and papers pertinent to any hearing, and shall have the right to file proceedings in the circuit court of Hamilton County for appropriate action for contempt against any person failing or refusing to answer or obey a summons, and to give and produce testimony before said hearing body. Any person who shall fail to appear in response to a subpoena or to answer any questions or produce any books or papers pertinent to any such proceeding or proceedings, or hearing or who shall knowingly give false testimony in connection therein shall be guilty of a misdemeanor.

The hearing may be private or public, in the discretion of the hearing body or judge. If the hearing body or judge finds that the employee was discharged, suspended, or laid off for a political or a religious motive, or in violation of the provisions of this Act, the appealing employee shall be reinstated without loss of faith. The hearing body or judge shall have the duty and power to affirm, reverse, set aside or modify the order of discharge, suspension or layoff, as theretofore made by the superior officer of such employee. Any and all employees discharged, or suspended in the event that such

employee or employees are proven innocent of said charges by the hearing body or judge or any other of the courts will be reinstated at his position he held when charges were made, with full retroactive pay for the time lost. A copy of the order of the hearing body or judge shall be furnished to the proper city official. In the event said order directs the reinstatement of said employee, or retroactive pay, it shall be the ministerial duty of the cognizant officials of the City of Chattanooga to comply with the terms thereof. As used herein, the term "hearing body or judge" shall mean the person or persons duly established by the City Council to conduct appeal hearings of employees.

FOR THE AMENDMENT { }

AGAINST THE AMENDMENT { }

SECTION 3. BE IT FURTHER ORDAINED, That all laws constituting the present Charter of the City of Chattanooga, not in conflict with this amendatory home rule ordinance, be and the same are continued in full force and effect, and all laws or parts of laws in conflict therewith are hereby repealed.

SECTION 4. BE IT FURTHER ORDAINED, That if any clause, sentence, paragraph, section, or part of this ordinance shall be held to be unconstitutional or void, it shall not affect the remaining parts of this Ordinance, it being hereby declared to be the legislative intent to have passed the remainder of this Ordinance notwithstanding such part, if any, as may be held to be invalid.

SECTION 5. BE IT FURTHER ORDAINED, That this Ordinance shall be published in full by the Clerk of the City Council in both daily newspapers in the City of Chattanooga after the passage thereof on second and final reading.

SECTION 6. BE IT FURTHER ORDAINED, That the Clerk of the City Council shall certify the passage of this Ordinance to the Hamilton County Election Commission and request that the proposed amendment to the home rule Charter of the City of Chattanooga, Tennessee, be placed on the ballot to be used in the general state election to be held on or about November 2, 2010.

SECTION 7. BE IT FURTHER ORDAINED, That the City Finance Officer is authorized and directed to pay the *pro rata* cost of this special City election.

SECTION 8. BE IT FURTHER ORDAINED, That the Hamilton County Election Commission shall certify to the Clerk of the City Council of the City of Chattanooga, Tennessee, the result of said election, and the said Clerk shall cause said certification to be made a part of the minutes of the City Council.

SECTION 9. BE IT FURTHER ORDAINED, That Section 1 and Section 2 of this Ordinance shall take effect sixty (60) days after its approval by a majority of the qualified voters of the City voting thereon, as provided by Article XI, Section 9, Constitution of Tennessee, the public welfare requiring it.

SECTION 10. BE IT FURTHER ORDAINED, That this Ordinance shall take effect, except for Section 1 and Section 2, immediately after its passage.

PASSED on Second and Final Reading

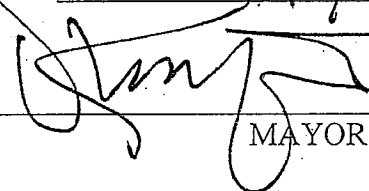
August 17, 2010.



CHAIRPERSON

APPROVED: DISAPPROVED:

DATE: August 18, 2010



MAYOR

CRF/kac