

FILE OF CITY COUNCIL

BILL NO. 34 -2019

INTRODUCED BY COUNCIL

June 5, 2019

AN ORDINANCE

DIRECTING THE LEHIGH COUNTY BOARD OF ELECTIONS TO PLACE A REFERENDUM QUESTION BEFORE THE CITY OF ALLENTOWN VOTERS ON THE NOVEMBER 5, 2019 GENERAL ELECTION BALLOT TO AMEND THE CITY OF ALLENTOWN HOME RULE CHARTER TO PROHIBIT A TAX INCREASE TO GO INTO EFFECT BY DEFAULT WITHOUT COUNCIL'S APPROVAL REQUIRE CITY COUNCIL TO ADOPT AN ANNUAL BUDGET NO LATER THAN DECEMBER 31ST OF THE FISCAL YEAR CURRENTLY ENDING FOR THE ENSUING FISCAL YEAR, TO REQUIRE AFFIRMATIVE VOTES OF FOUR (4) MEMBERS OF CITY COUNCIL TO ADOPT A BUDGET AND TO ELIMINATE THE POTENTIAL OF A BUDGET FOR THE ENSUING FISCAL YEAR TO BECOME EFFECTIVE BY DEFAULT

Whereas, Article IX, Section 2 of the Pennsylvania Constitution provides that municipalities shall have the right and power to frame and adopt Home Rule Charters; and

Whereas, the voters of the City of Allentown adopted a Home Rule Charter on April 23, 1996, which became effective in January 1997; and

Whereas, Section 1103 of the City of Allentown Home Rule Charter authorizes City Council to initiate amendments to the Home Rule Charter through the referendum process; and

Whereas, Article VIII (Financial Procedures), Section 805 (City Council Action on Budget) of the City Home Rule Charter states that:

SECTION 805 CITY COUNCIL ACTION ON BUDGET

A. *Public Access to Budget:* The proposed budget shall be available for public inspection at City Hall and at the Allentown Public Library and the Lehigh County Law Library, and copies shall be available for the public at a reasonable fee to be set by the Council.

B. *Amendment Before Adoption.* After the public hearing, the City Council may adopt the budget with or without amendments. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income and thereby allowing for line item changes by the City Council.

If the amended Budget increases, decreases or readjusts funding requirements by more than five (5%) percent, or adds or deletes a program, the Budget shall be returned to the Mayor immediately for comment and resubmission to the Council within three (3) normal City work days.

Council shall provide for another public hearing to be held within five (5) days after the Mayor has resubmitted the Budget.

*C. **Adoption.** Council must adopt an annual budget by no later than December 15th of the fiscal year currently ending. If Council fails to adopt a Budget by December 15th, the Mayor's original proposed balanced Budget shall become the official Budget of the City for the ensuing fiscal year.*

Whereas, Article VIII (Financial Procedures), Section 807, Subsection D (Revenue)) of the City Home Rule Charter states that:

SECTION 807 REVENUE

D. Council may reduce any tax rate or fee (provided it maintains the minimum ratios for property taxes as in Section 807 (C)(2)) by a majority vote. Council may increase property tax rates or fees (Provided it maintains the minimum ratios for property taxes as in Section 807 (C)(2) by five votes.

Whereas, Section 2942 of the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. § 2942, authorizes the governing body of a Home Rule municipality to initiate a referendum to amend its Home Rule Charter by the enactment of an Ordinance; and

Whereas, the City Council of the City of Allentown seeks an amendment to the Home Rule Charter to be voted upon by the City of Allentown electorate through referendum to ~~make changes to the default budget process preventing a tax increase to go into effect by default.~~ require City Council to adopt an annual Budget no later than December 31st of the fiscal year currently ending for the ensuing fiscal year, to require affirmative votes of four (4) members of City Council to adopt a Budget and to eliminate the potential of a Budget for the ensuing fiscal year to become effective by default.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN

SECTION ONE: The Lehigh County Board of Elections is directed to place the following referendum question to the voters of the City of Allentown on the November 5, 2019 election ballot:

~~"Shall Section 805, Subsection C of the City of Allentown Home Rule Charter be amended to require City Council to adopt an annual Budget no later than December 31st of the fiscal year currently ending for the ensuing fiscal year and to eliminate the potential of a Budget for the ensuing fiscal year to become effective by default? make to prevent a proposed budget with a tax or fee increase to go into effect by default without council's approval, allowing a proposed budget with no tax or fee increase to go into effect by default, and appropriating funds into an appropriated balance if a tax decrease is not adopted by December 15?"~~

SECTION TWO: The Lehigh County Board of Elections is directed to place the following referendum question to the voters of the City of Allentown on the November 5, 2019 election ballot:

"Shall Section 807, Subsection D of the City of Allentown Home Rule Charter be amended to require the affirmative vote of four (4) members of City Council to adopt a Budget?"

SECTION THREE: Section 805, Subsection C of the Home Rule Charter shall be amended to read as follows:

SECTION 805 CITY COUNCIL ACTION ON BUDGET

A. **Public Access to Budget:** The proposed budget shall be available for public inspection at City Hall and at the Allentown Public Library and the Lehigh County Law Library, and copies shall be available for the public at a reasonable fee to be set by the Council.

B. **Amendment Before Adoption.** After the public hearing, the City Council may adopt the budget with or without amendments. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income and thereby allowing for line item changes by the City Council.

If the amended Budget increases, decreases or readjusts funding requirements by more than five (5%) percent, or adds or deletes a program, the Budget shall be returned to the Mayor immediately for comment and resubmission to the Council within three (3) normal City work days.

Council shall provide for another public hearing to be held within five (5) days after the Mayor has resubmitted the Budget.

C. **Adoption and effective date.** Council and the Administration must adopt an annual budget such that the effective date of the budget will be no later than December 15th 31st of the fiscal year currently ending. ~~If Council fails to adopt a Budget by December 15th, the Mayor's original proposed balanced Budget shall become the official Budget of the City for the ensuing fiscal year.~~ See this Charter, Sections 219 and 221 for discussion of effective dates.

~~**1. The Mayor's Original Proposed Balanced Budget contains No Tax or Fee Increases:** If Council fails to adopt a budget by December 15th, the Mayor's original proposed balanced budget shall become the official budget of the City for the ensuing fiscal year.~~

~~**2. The Mayor's Original Proposed Balanced Budget Contains a Tax or Fee Increase:** If Council fails to adopt a budget by December 15th, the tax rate or fee for the ensuing fiscal year shall not be increased, but shall remain the same as the current fiscal year, and cuts shall be made from the Mayor's proposed expenditures on a prorated basis across each and every line item in the relevant Fund, except for debt service or other expenditures mandated by law. The resulting budget shall become the official budget of the City for the ensuing fiscal year. The Administration may propose transfers to adjust funding according to the procedures found in the Charter and Administrative Code.~~

~~**3. The Mayor's Original Proposed Balanced Budget Contains a Tax or Fee Decrease:** If Council fails to adopt a budget by December 15th, the tax rate or fee for the ensuing fiscal year shall not be decreased but shall remain the same as the current fiscal year, and the surplus revenue shall be placed in the relevant Fund's balance. The resulting budget shall become the official budget of the City for the ensuing fiscal year.~~

SECTION FOUR: Section 807, Subsection D of the Home Rule Charter shall be amended to read as follows:

SECTION 807 REVENUE

D. Council may reduce any tax rate or fee (provided it maintains the minimum ratios for property taxes as in Section 807 (C)(2)) by a majority vote. Council may increase property tax rates or fees (provided it maintains the minimum ratios for property taxes as in Section 807 (C)(2)) by five four (4) votes.

SECTION FIVE: This Ordinance shall take effect ten (10) days after final passage.

SECTION SIX: All Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

SECTION SEVEN: Pursuant to the Home Rule Charter, if adopted by the voters of the City of Allentown, this provision shall be considered adopted and effective upon certification by the Lehigh County Election Board.

SECTION EIGHT: This Referendum question, if approved, will not take effect until January 1, 2020.

Amendments made at June 19th Council meeting:

A motion was made in Section 807 Revenue to change require four votes for a tax rate or fee, in effect, changing the number five to number four. The motion was approved 6 – 1 (MacLean).

A motion to have the administration and council to pass a budget by December 31 – encapsulating the amendments made to the legislation per the underlines and deletions noted in the text and read into the record. (7-0)

Adding a Section Stating: This referendum question, if approved, will not take effect until January 1, 2020.
Approved 7-0