

ORDINANCE NO.

FILE OF CITY COUNCIL

BILL NO. 49-2019

AUGUST 7, 2006

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AN ORDINANCE

Amending Article 121.02, Heads of Departments, Offices and Agencies; Qualifications; Prohibitions; Duties, by providing clarifying procedures for the appointment of Heads of Department when a vacancy occurs.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION ONE: That Article 121.02, C., be amended to read as follows:

**121.02 HEADS OF DEPARTMENTS, OFFICES AND AGENCIES;  
QUALIFICATIONS; PROHIBITIONS; DUTIES**

**A. Appointment:** *Except as otherwise provided by this Charter or other applicable statute, the Mayor shall appoint and remove the head of any department, office and agency. An appointment shall not be effective unless City Council, by resolution, confirms it or fails to reject it within sixty (60) days after the appointment. The appointee shall serve unless rejected by City Council or until removal from office, whichever is sooner. (Art. V, §503)*

**B. Removal:** *The Mayor shall have the power at any time to remove the head of any department, office or agency immediately under the Mayor's direction and supervision, but the Mayor shall, within fourteen (14) days, notify, in writing City Council of the removal and the reason for it. (Art. V, §503)*

**C. Interim Status – Head of Department:** When a head of department position is vacant, the Mayor may name an interim head of department without Council approval provided the person named is a current city employee. No individual may serve as an interim head of department for more than ninety (90) calendar days; such status shall cease automatically at the conclusion of the 90th day and the employee will automatically return to the position the employee had prior to being named interim head of department. An individual may continue as a head of department past this interim period only if, prior to the conclusion of the interim status, the Mayor appoints the individual for the head of department position or council extends the interim status by resolution specifying the date the interim status shall cease. The appointment of a head of the department will be subject to the appointment procedures described in subparagraph A of this Section.

*The Mayor shall submit any temporary appointment of a department director to Council within sixty (60) days of the position being occupied or the temporary appointment shall become null and void after thirty (30) days unless approved by Council. Temporary appointments may take place only if approved by four (4) Councilpersons, by resolution, at a public meeting for the specified time indicated in the resolution. Council shall act on the temporary appointment at the next regularly scheduled meeting after notification by the Mayor. (14432 §1 11/7/06)*

#### **D. Qualifications**

*The heads of departments, offices and agencies shall be selected solely on the basis of education, training, experience; and professional, executive and administrative abilities; and such other qualifications as may be set forth in this Charter. (Art. V, §504)*

#### **E. Prohibitions**

*1. The Department Head shall devote full time to the office; shall hold no compensated elective public office; and shall hold no other City office or City employment for which any compensation is paid or received. (Art. V, §505)*

*2. A Department Head who has a financial interest, direct or indirect, or by reason of ownership of stock in any corporation in any sale of land with the City or, in any contract with the City, shall immediately make known that interest to Council. A Department Head who willfully conceals such an interest shall be guilty of malfeasance in office. Violation of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City. (Art. V, §505)*

*3. The Department Head shall refrain from participating in the debate and discussion of policy by City Council unless authorized by the Mayor but may respond to inquiries on any matter under consideration. (Art. V, §505)*

#### **F. Duties of Department Directors**

In addition to the duties prescribed in general law, each director of a department shall, under the general direction of the Mayor:

1. Direct the performance of all duties and responsibilities required of his department or its subordinate agencies provided by State law, this Administrative Code, or other Ordinances of the City, and such other duties as may be required by the Mayor which are not in conflict with law or Ordinances;

2. Prescribe the internal organization of the department and the duties of subordinate officers and employees within the department;

3. Assign functions, powers and duties to subordinate officers and employees within the department, and modify such assignments as need appears;

4. Supervise the work of the department through the provisions provided by this Administrative Code and such other organization units as the director of the department may find necessary or desirable and supervise and direct the work of the employees of the department;

5. Delegate to division heads such of their powers as they may deem necessary for efficient administration; (11787 §3ll 1/20/70)

6. Report at least semi-annually, on or near January 31 and July 31, to the Mayor and Council in such form as shall be approved by the Director of Administration on the work of the department during the preceding year and upon request of the Mayor and/or Council, file interim monthly reports for periods requested. (12620 §2 9/5/84; 13013 §1 11/7/90)

(Ed. Note: The section requiring each director to submit a bi-annual inventory - established by Ordinance 13013 §1 11/7/90 - was deleted by Ordinance 13164 §1 12/10/92. See Section 121.10, Fixed Assets and Inventory Control.)

SECTION TWO: That this Ordinance take effect ten (10) days after final passage.

SECTION THREE: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

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- **What Department or bureau is Bill originating from? Where did the initiative for the bill originate?**

City Council and the Administration

- **Summary and Facts of the Bill**

Legislation was passed in 2006 providing for the appointment of interim directors. After review by the Solicitor, Council and Administration it was determined the legislation needed clarification and a clear set of procedures for appointing Department Heads during a vacancy. Allowing the appointment of an interim department head for 90 days gives the Mayor the ability to conduct an adequate hiring process.

- **Purpose – Please include the following in your explanation:**
  - **What does the Bill do – what are the specific goals/tasks the bill seek to accomplish**
  - **What are the Benefits of doing this/Down-side of doing this**
  - **How does this Bill related to the City’s Vision/Mission/Priorities**

The legislation aims to create a rationale process for filling department director vacancies. The intent is to comply with the provisions with the charter – preventing future administrations from using interim appointments to avoid the requirements of the charter and, in effect, subverting council approval of department heads.

- **Financial Impact – Please include the following in your explanation:**
  - **Cost (Initial and ongoing)**
  - **Benefits (initial and ongoing)**

The legislation has no financial impact.