



# *CITY OF ALLENTOWN*

**No. R80**

## **RESOLUTION**

**R – 2019**

*Introduced by City Council on October 16, 2019*

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**Approves the Appointment of Craig W. Messinger as the Director of Public Works at the salary of \$121,500**

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### ***Resolved by the Council of the City of Allentown, That***

**WHEREAS**, Section 503 of the Home Rule Charter requires City Council approval of Department Directors; and

**WHEREAS**, the Mayor submitted Craig W. Messinger for consideration and confirmation for the position of Director of Public Works in a memo dated September 26, 2019.

**NOW, THEREFORE, BE IT RESOLVED** that City Council hereby approves the appointment of Craig W. Messinger as Director of Public Works at a salary of \$121,500 effective October 17, 2019.

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### **Charter Provisions:**

#### **SECTION 503 HEADS OF DEPARTMENTS, OFFICES AND AGENCIES**

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.

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.

#### **SECTION 504 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.

#### **SECTION 505 PROHIBITIONS**

A. 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.

B. 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.

C. 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.

## **SECTION 506 DEPARTMENT OF PUBLIC WORKS/CITY ENGINEER**

The Department of Public Works is mandated by this Charter. The Mayor shall appoint and fix the compensation of the head of the Department of Public Works/City Engineer. He or she shall perform the duties required through the Administrative Code or other action, or as may be required of a City Engineer by general law.

## **SECTION 606 COMPENSATION OF HEADS OF DEPTS., OFFICES & AGENCIES, & CITY SOLICITOR**

The compensation of all heads of departments, offices and agencies, and the City Solicitor, under the direction of the Mayor shall be proposed by the Mayor and approved by ordinance. Compensation of all other employees shall be set in accordance with the uniform pay plan established by City Council in the Personnel Code. All such heads of departments, offices and agencies, need not be residents of the City at the time of appointment, but after appointment shall reside in the City. City residency shall be required within twelve (12) months of being appointed. *The City Solicitor shall be either a resident and/or a taxpayer of the city of Allentown prior to their appointment.* (11/5/02)

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ORDINANCE NO. 15555

FILE OF CITY COUNCIL

BILL NO. 49-2019

AUGUST 7, 2006

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. Temporary Absence:** Head of Department. When a Department Head position is not vacant but the Department Head is temporarily unable to fulfill his or her daily responsibilities due to military service or to absence authorized by applicable law, regulations, or policy, the Mayor may name an existing City employee as "Temporary Department Head" to fulfill the Department Head's responsibilities until the Department Head is able to resume his or her duties.

When invoking this provision, the Mayor shall notify Council as soon as practicable, in writing, in general terms: the circumstances requiring the need for the Temporary Department Head; the name of the person who will serve as the Temporary Department Head; and of the expected time frame that the Temporary Department Head will serve.

When the Department Head is again available to resume fulfilling his or her duties as Department Head, the Mayor shall provide Council notice in writing of the date the Department Head will be resuming his or her responsibilities. If circumstances require it, the Mayor may extend the time the Temporary Department Head serves in this position by notifying Council in writing, as soon as practicable, of the: circumstances requiring the extension of time; and of the expected duration of the extension.

The Temporary Department Head shall cease in that position immediately when the Department Head resumes the Department Head duties and responsibilities. At that time, the Temporary Department Head will immediately return to the position he or she was serving in prior to being named the Temporary Department Head.

If a Temporary Department Head leaves the Temporary Department Head position for any reason prior to the Department Head resuming his or her duties, the Mayor shall be required to appoint an Interim Head of Department by following the applicable procedures for Interim appointments.

If a Department Head position has been filled on a Temporary Department Head basis for nine months, Council may, by resolution, require the Mayor to name an Interim Head of Department using the applicable procedures for Interim appointments. Extensions made by the Mayor as to the length of time the Temporary Department Head will serve in the position do not limit Council's ability to invoke this paragraph.

## **E. 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)*

## **F. 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)*

#### **G. 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 §3II 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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