

FILE OF CITY COUNCIL

BILL NO. 91 -2020

INTRODUCED BY COUNCIL

DECEMBER 21, 2020

AN ORDINANCE

DIRECTING THE LEHIGH COUNTY BOARD OF ELECTIONS TO PLACE A REFERENDUM QUESTION BEFORE THE CITY OF ALLENTOWN VOTERS ON THE MAY 18, 2021 PRIMARY ELECTION BALLOT TO AMEND THE CITY OF ALLENTOWN HOME RULE CHARTER TO PERMIT THE CITY COUNCIL TO APPOINT A COUNCIL SOLICITOR FOR LEGAL ADVICE.

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;

Whereas, the voters of the City of Allentown adopted a Home Rule Charter (hereafter “Charter”) on April 23, 1996, which became effective in January, 1997;

Whereas, Charter Article VII, Section 701, creates a City Solicitor to serve as the chief legal advisor to the Mayor, the Council and all City Departments and agencies;

Whereas, Section 701 states that “It is the intent of the Charter that only one (1) person shall be the legal advisor of the City....”;

Whereas, the Charter does not authorize City Council of the City of Allentown to have its own legal counsel other than the appointed City Solicitor;

Whereas, Section 701 enables the Mayor to engage temporary solicitor’s to represent the City in specific matters,

Whereas, Section 701 also provides that “The City Solicitor Shall direct and control the legal matters of the city”;

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 Charter to be voted upon by the City of Allentown electorate through referendum to permit City Council to appoint its own City Council Solicitor so as to provide City Council with legal advice;

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

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 May 18, 2021 election ballot:

“Shall Section 701 of the City of Allentown Home Rule Charter be amended to permit City Council to appoint a City Council Solicitor such that Section 701 will read:

- A. The Mayor shall appoint a City Solicitor who shall be a member of the bar of the Supreme Court of Pennsylvania and experienced in municipal law. The City Solicitor, as the Head of the Legal Department, shall serve as chief legal advisor to the Mayor and all City Departments and agencies, represent the City in all legal proceedings to which the City is a party, and shall perform such other duties prescribed by law, by this Charter and by the City Administrative Code.
- B. The Mayor shall have the power, if needed, to engage other temporary Solicitors to represent the City as the need may be. Such appointments shall be temporary and shall be for the purpose of representing the City in specific legal matters.
- C. City Council may appoint legal counsel to serve as City Council Solicitor to provide City Council with legal advice.
- D. The City Solicitor shall direct and control the legal matters of the city.

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

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

SECTION FOUR: 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.