

FILE OF CITY COUNCIL

ORDINANCE NO. 15668

BILL NO. 50 -2020

INTRODUCED BY COUNCIL

July 15, 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 GENERAL ELECTION BALLOT TO AMEND THE CITY OF ALLENTOWN HOME RULE CHARTER TO AUTHORIZE AND PERMIT THE CITY CONTROLLER TO INITIATE AND TO CONDUCT ALL MANNER OF AUDITS, INCLUDING PERFORMANCE AUDITS, WITHOUT FIRST BEING REQUESTED TO DO SO BY THE MAYOR OR BY CITY COUNCIL AND TO PERMIT THE CITY CONTROLLER TO HAVE ACCESS TO ALL TYPES OF INFORMATION, INCLUDING PAYROLL INFORMATION, TO CONDUCT SUCH AUDITS

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 II (The Legislative Branch), Section 210 (Investigations), Subsection A of the City Home Rule Charter states that:

SECTION 210 INVESTIGATIONS

A. Council shall have the power, by ordinance, to make or cause to be made, investigations, audits or studies of the City and the conduct of any City Department, office or agency, and, for this purpose may retain professional and technical assistance, subpoena witnesses, administer oaths, take testimony, require the production of evidence and provide funds for such investigation, audit and study.

Whereas, Article IV (City Controller), Section 403 (Responsibility), Subsection A and Subsection D of the City Home Rule Charter states that:

SECTION 403 RESPONSIBILITY

The City Controller shall:

A. Have financial oversight of City finances, independent of the Executive and Legislative branches and shall review all expenditures of the Mayor, City Council and City Boards, Commissions and Agencies; ...

D. Perform specific audits of City finances from time to time as requested from time to time by the Mayor or by City Council;

Whereas, existing Section 210 of the Home Rule Charter authorizes City Council, by Ordinance, to conduct investigations, audits and studies of any sort; and

Whereas, existing Section 403 of the Home Rule Charter permits the City Controller to perform only financial audits and only at the request of the Mayor or of City Council; and

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 authorize and permit the City Controller to initiate and conduct all manner of audits, not only financial audits and to include performance audits, without first being requested to do so by the Mayor or by City Council and to permit the City Controller to have access to any and all types of information necessary, including City payroll information, to conduct such audits.

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 May 18, 2021 election ballot:

"Shall Section 403, Subsection A and Subsection D of the City of Allentown Home Rule Charter be amended to authorize and permit the City Controller to initiate and conduct all manner of audits, including performance audits, without first being requested to do so by the Mayor or by City Council and to permit the City Controller to have access to any and all types of information necessary, including City payroll information, to conduct such audits?

SECTION TWO: Section 210 of the Home Rule Charter shall be amended to read as follows:

SECTION 210 INVESTIGATIONS

A. In addition to the authority of the City Controller to conduct audits under Section 403.D of this Home Rule Charter, Council shall have the power, by ordinance, to make or cause to be made, investigations, audits or studies of the City and the conduct of any City Department, office or agency, and, for this purpose may retain professional and technical assistance, subpoena witnesses, administer oaths,

take testimony, require the production of evidence and provide funds for such investigation, audit and study.

SECTION THREE: Section 403. D of the Home Rule Charter shall be amended to read as follows:

SECTION 403 RESPONSIBILITY

The City Controller shall:

D. Perform audits, including performance audits, of the City and any City Department, office, authority, board or commission. In the performance of such audits, the City Controller, to the fullest extent allowable by law, shall be given access to any and all information and documents reasonably and actually necessary for the completion of such audits. The Controller, in conducting such audits, shall in all respects comply with Section 171.02. B (Confidential Information) of the City Ethics Code and Section 140.17 (Employee Conduct and Work Rules), Part H. 12 of the Personnel Code prohibiting the unauthorized disclosure of confidential information in violation of federal, state and local laws. All information and documents made available to the Controller to conduct such audits and any reports resulting therefrom shall be subject to the provisions of the Pennsylvania Right-to-Know Law.

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

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

SECTION SIX: 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.

AMENDMENT:

D. Perform audits, including performance audits, of the City and any City Department, office, authority, board or commission. In the performance of such audits, the City Controller, to the fullest extent allowable by law, shall be given access to any and all information and documents reasonably and actually necessary for the completion of such audits. The Controller, in conducting such audits, shall in all respects comply with Section 171.02. B (Confidential Information) of the City Ethics Code and Section 140.17 (Employee Conduct and Work Rules), Part H. 12 of the Personnel Code prohibiting the unauthorized disclosure of confidential information in violation of federal, state and local laws. All information and documents made available to the Controller to conduct such audits and any reports resulting therefrom shall be subject to the provisions of the Pennsylvania Right-to-Know Law., PASSED 7 - 0

	Yea	Nay
Candida Affa	X	
Ce-Ce Gerlach	X	
Daryl Hendricks	X	
Cynthia Mota	X	
Joshua Siegel	X	
Ed Zucal	X	
Julio A. Guridy, Pres.	X	
TOTAL	7	0

I hereby certify that the foregoing Ordinance was passed by City Council on January 6, 2021 and signed by the Mayor on January 7, 2021.



CITY CLERK