

Submitted by: Assembly Chair  
LaFrance and Vice-Chair  
Constant

Prepared by: Assembly Counsel  
For reading: September 28, 2021

**ANCHORAGE, ALASKA**  
**AO No. 2021-92(S)**

1 **AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE**  
2 **MUNICIPAL CODE SECTIONS 2.30.095 AND 3.20.020, AND CHAPTER 3.30,**  
3 **REGARDING MAYORAL APPOINTMENTS TO PRINCIPAL EXECUTIVE OR**  
4 **DEPARTMENT HEAD POSITIONS AND ASSEMBLY CONFIRMATION.**

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6 **WHEREAS**, since taking office July 1, 2021, in addition to hiring his office staff, the  
7 new Mayor has made several appointments to principal executive and department  
8 head positions; and

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10 **WHEREAS**, these Mayoral appointments are subject to Assembly confirmation,  
11 pursuant to Article V of the Home Rule Charter of the Municipality of Anchorage and  
12 as implemented in Anchorage Municipal Code, including sections 2.30.095 and  
13 3.20.020; and

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15 **WHEREAS**, most confirmations of appointed qualified individuals have occurred  
16 seamlessly, after submittal of an Assembly Memorandum form the Mayor naming  
17 the appointee and including a resume, holding a confirmation hearing at an  
18 Assembly work session, and voting to confirm the appointment at an Assembly  
19 meeting; and

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21 **WHEREAS**, however, some of the Mayor's appointments have been controversial,  
22 and one failed to be confirmed; and

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24 **WHEREAS**, most, if not all, the new Mayor's appointments to the aforementioned  
25 positions were hired or began working in a provisional, temporary or acting capacity  
26 in the position for which appointed, before the confirmation vote; and

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28 **WHEREAS**, Anchorage Municipal Code section 3.30.066 currently allows a person  
29 to be work in a position in a provisional, temporary, or acting appointment capacity  
30 for up to six months; and

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32 **WHEREAS, the proposed Code amendments herein are not intended to**  
33 **intrude on the Mayor's appointment powers, but only to refine the Assembly's**  
34 **confirmation powers;** now, therefore,

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36 **THE ANCHORAGE ASSEMBLY ORDAINS:**

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38 **Section 1.** Anchorage Municipal Code section 2.30.095 is hereby amended to  
39 read as follows (*the remainder of the section is not affected and therefore not set*  
40 *out*):

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1           **2.30.095     Confirming the appointment of principal executives,**  
 2                           **department heads, and members of boards and**  
 3                           **commissions.**  
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5           A.     Except as otherwise provided in this section, a [A] confirmation  
 6                    hearing for an appointment submitted to the assembly is scheduled  
 7                    pursuant to this section when:

- 8                    1.     The municipal clerk's office receives an assembly  
 9                            memorandum submitted to the assembly agenda from the  
 10                           mayor or designee with the subject "Executive appointment -  
 11                           confirmation hearing," or
- 12                   2.     The assembly requests it.

13           B.     *Confirmation hearing procedure.* When this Code requires it, the  
 14                    following process shall be used to schedule assembly confirmation  
 15                    hearings of appointments:

- 16                   1.     The municipal clerk shall set an appointment on a regular  
 17                           meeting agenda for action occurring more than ten days after  
 18                           the proposed assembly memorandum for the appointment is  
 19                           received.
- 20                   2.     The municipal clerk shall set a confirmation hearing for the  
 21                           proposed appointee at a work session scheduled prior to the  
 22                           meeting for assembly action. The municipal clerk shall provide  
 23                           the proposed assembly memorandum to all assembly  
 24                           members at or before the confirmation hearing.
- 25                   3.     At the assembly meeting for action to confirm the appointment,  
 26                           the assembly may proceed even if no confirmation hearing was  
 27                           held.

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 29           C.     An appointment for a principal executive or department head position  
 30                    subject to assembly confirmation may be scheduled for a confirmation  
 31                    hearing and set on a meeting agenda for a confirmation vote by the  
 32                    assembly chair at any time after such person is hired or receives  
 33                    compensation for the position, or is otherwise serving in the position  
 34                    in a provisional, temporary, or acting capacity. Submittal of a  
 35                    memorandum from the mayor or designee is not a prerequisite for this  
 36                    action by the chair, and lack of such memorandum does not preclude  
 37                    a confirmation vote.

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 39           (AO No. 2019-109(S), § 2, 12-3-19)

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 41     **Section 2.** Anchorage Municipal Code section 3.20.020 is hereby amended to  
 42     read as follows (*the remainder of the section is not affected and therefore not set*  
 43     *out*):

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 45           **3.20.020 Powers of mayor.**

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 47           A.     *Appointments.* In addition to appointments as provided for in Charter  
 48                    sections 5.02(a) and 5.03 through 5.05, the mayor shall appoint the  
 49                    internal auditor, and all heads of municipal departments, including  
 50                    public utilities, subject to confirmation by the assembly, and all other  
 51                    heads of municipal agencies provided for in this chapter, without

assembly confirmation. All appointments under this subsection shall be based upon the professional qualifications of the appointee. Except as provided in this chapter, persons appointed by the mayor serve at the pleasure of the mayor. Persons appointed by the mayor and required to take the oath of office pursuant to section 1.35.010 shall do so as soon as practicable after appointment or confirmation.

1. Appointments of a person to the following positions, in addition to the appointments subject to assembly confirmation identified in subsection A. above, shall be submitted in accordance with subsection A.2.:
  - a. The director of the Police and Fire Retirement System (section 3.85.025P.),
  - b. Executive director of the Heritage Land Bank (section 25.40.040), and
  - c. Executive director of the Anchorage Community Development Authority (section 25.35.040).
2. When required by this section, in addition to any other appointment requirements in this Code the mayor or designee shall submit a proposed assembly memorandum to the assembly agenda with the subject "Executive appointment - confirmation hearing," naming the person, and including their resume. These appointments shall be subject to a confirmation hearing in accordance with section 2.30.095.
3. Notwithstanding any other provision of this code, a person serving in a provisional, temporary, or acting capacity for a position described in this subsection A. and not yet confirmed, shall be placed on the next regular assembly meeting agenda for a [DEEMED REJECTED FOR] confirmation vote if a memorandum has not been submitted to the Assembly and received by the Municipal Clerk within 60 days of the date the person begins to serve in the position. [PROMPTLY AFTER THE 60 DAY PERIOD ENDS, THE PERSON SHALL NO LONGER SERVE IN OR BE COMPENSATED FOR THAT POSITION.]

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(AO No. 79-27; AO No. 82-70; AO No. 85-8; AO No. 88-47(S); AO No. 88-82; AO No. 90-15(S); AO No. 91-173(S); AO No. 2000-105(S), § 2, 6-27-00; AO No. 2018-24 , § 2, 4-10-18; AO No. 2019-109(S) , § 3, 12-3-19)

**Section 3.** Anchorage Municipal Code section 3.30.066 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

### **3.30.066 Types of appointments.**

Type of appointment means the status of an employee when designated to a specific vacant position in a particular class of positions, filled by a particular method.

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B. *Provisional appointment.* When an agency head finds it essential to fill

1 a vacancy and the director is unable to provide full certification for such  
2 a vacancy because there is no existing appropriate list, or because  
3 there is an insufficient number of persons on the appropriate lists who  
4 are willing to accept appointment, the director may authorize the  
5 agency head to fill the vacancy by means of provisional appointment.  
6 A provisional appointment is a temporary appointment and shall expire  
7 when a list has been prepared and a regular appointment made, or it  
8 shall expire automatically six months from the date of such  
9 appointment, except a provisional appointment by the mayor to a  
10 position subject to assembly confirmation shall expire automatically 60  
11 days from the date of such **provisional** appointment.

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13 G. *Temporary appointment.* Appointments for short-term or seasonal  
14 employment may be made as are necessary to carry on the  
15 government business. Appointments of this type shall normally be  
16 made from established employment lists. If no list exists or if  
17 certification from lists is impracticable because of nonavailability of  
18 eligibles for temporary work, the director may authorize the temporary  
19 appointment of any qualified individual to the designated agency head.  
20 The length of a temporary appointment shall not be more than six  
21 months in any one year except where the director grants an extension  
22 because of extenuating circumstances. However, a temporary  
23 appointment by the mayor to a position subject to assembly  
24 confirmation shall not be more than 60 days from the date of such  
25 **temporary** appointment, and the director may not grant an extension  
26 for any reason. The acceptance or refusal by an eligible of a temporary  
27 appointment does not affect his standing on the regular employment  
28 list. Temporary employees of a seasonal nature may have their names  
29 placed on a reemployment list to be considered for the following  
30 season.

31 H. *Acting appointment.* An acting appointment is made when a qualified  
32 employee may be required to serve temporarily in and accept  
33 responsibility for work in a vacant higher level position which, from the  
34 standpoint of the municipality's business, cannot be left vacant for any  
35 but the shortest period of time, and yet no qualified applicant is  
36 available for its filling, announcement of the position is delayed or for  
37 some other reason it is not feasible to make a probationary  
38 appointment. This type of appointment gives the acting employee no  
39 advantage in competition for regular filling of this position. However,  
40 time in acting appointment may be counted toward experience for the  
41 class of position concerned. An acting appointment can be  
42 distinguished from an acting assignment in that in an acting  
43 appointment the individual has been determined by the director to be  
44 fully qualified for the vacant higher level position, the full range of  
45 responsibilities for the vacant position has been assigned to the  
46 temporarily appointed individual, and the director has concurred with  
47 the decision not to make a probationary appointment. An acting  
48 appointment requires the prior written approval of the director. An  
49 acting appointment by the mayor to a position subject to assembly  
50 confirmation shall expire automatically 60 days from the date of such  
51 **acting** appointment.

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(AO No. 79-195; AO No. 94-117, § 11, 7-26-94)

**Section 4.** This ordinance shall be effective for any person who, on the effective date of this ordinance, is or was hired, serving or receiving compensation for a provisional, temporary, acting, or other appointment capacity in a position that is, pursuant to Charter or Code, a principal executive or department head position appointed by the mayor and subject to confirmation by the assembly, and has not yet been confirmed. For any person described in this section, the time period limitations and authority of the Assembly Chair to schedule a confirmation hearing with or without a memorandum from the Mayor shall begin on the effective date of this ordinance.

**Section 5.** This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Chair

ATTEST:

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Municipal Clerk