

Submitted by: Assembly Chair
LaFrance and Vice-Chair
Constant

Prepared by: Assembly Counsel
For reading: September 20, 2021

ANCHORAGE, ALASKA
AO No. 2021-92

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

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

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

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

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

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

WHEREAS, Anchorage Municipal Code section 3.30.066 currently allows a person to be work in a position in a provisional, temporary, or acting appointment capacity for up to six months; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

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

2.30.095 **Confirming the appointment of principal executives, department heads, and members of boards and commissions.**

- 1 A. Except as otherwise provided in this section, a [A] confirmation
 2 hearing for an appointment submitted to the assembly is scheduled
 3 pursuant to this section when:
- 4 1. The municipal clerk's office receives an assembly
 5 memorandum submitted to the assembly agenda from the
 6 mayor or designee with the subject "Executive appointment -
 7 confirmation hearing," or
 - 8 2. The assembly requests it.
- 9 B. *Confirmation hearing procedure.* When this Code requires it, the
 10 following process shall be used to schedule assembly confirmation
 11 hearings of appointments:
- 12 1. The municipal clerk shall set an appointment on a regular
 13 meeting agenda for action occurring more than ten days after
 14 the proposed assembly memorandum for the appointment is
 15 received.
 - 16 2. The municipal clerk shall set a confirmation hearing for the
 17 proposed appointee at a work session scheduled prior to the
 18 meeting for assembly action. The municipal clerk shall provide
 19 the proposed assembly memorandum to all assembly
 20 members at or before the confirmation hearing.
 - 21 3. At the assembly meeting for action to confirm the appointment,
 22 the assembly may proceed even if no confirmation hearing was
 23 held.
- 24
- 25 C. An appointment for a principal executive or department head position
 26 subject to assembly confirmation may be scheduled for a confirmation
 27 hearing and set on a meeting agenda for a confirmation vote by the
 28 assembly chair at any time after such person is hired or receives
 29 compensation for the position, or is otherwise serving in the position
 30 in a provisional, temporary, or acting capacity. Submittal of a
 31 memorandum from the mayor or designee is not a prerequisite for this
 32 action by the chair, and lack of such memorandum does not preclude
 33 a confirmation vote.

34

35 (AO No. 2019-109(S), § 2, 12-3-19)

36

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

40

41 **3.20.020 Powers of mayor.**

- 42
- 43 A. *Appointments.* In addition to appointments as provided for in Charter
 44 sections 5.02(a) and 5.03 through 5.05, the mayor shall appoint the
 45 internal auditor, and all heads of municipal departments, including
 46 public utilities, subject to confirmation by the assembly, and all other
 47 heads of municipal agencies provided for in this chapter, without
 48 assembly confirmation. All appointments under this subsection shall
 49 be based upon the professional qualifications of the appointee. Except
 50 as provided in this chapter, persons appointed by the mayor serve at
 51 the pleasure of the mayor. Persons appointed by the mayor and

1 required to take the oath of office pursuant to section 1.35.010 shall
2 do so as soon as practicable after appointment or confirmation.

3 1. Appointments of a person to the following positions, in addition
4 to the appointments subject to assembly confirmation identified
5 in subsection A. above, shall be submitted in accordance with
6 subsection A.2.:

7 a. The director of the Police and Fire Retirement System
8 (section 3.85.025P.),

9 b. Executive director of the Heritage Land Bank (section
10 25.40.040), and

11 c. Executive director of the Anchorage Community
12 Development Authority (section 25.35.040).

13 2. When required by this section, in addition to any other
14 appointment requirements in this Code the mayor or designee
15 shall submit a proposed assembly memorandum to the
16 assembly agenda with the subject "Executive appointment -
17 confirmation hearing," naming the person, and including their
18 resume. These appointments shall be subject to a confirmation
19 hearing in accordance with section 2.30.095.

20 3. Notwithstanding any other provision of this code, a person
21 serving in a provisional, temporary, or acting capacity for a
22 position described in this subsection A., shall be deemed
23 rejected for confirmation if a memorandum has not been
24 submitted to the Assembly and received by the Municipal Clerk
25 within 60 days of the date the person begins to serve in the
26 position. Promptly after the 60 day period ends, the person
27 shall no longer serve in or be compensated for that position.

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29 (AO No. 79-27; AO No. 82-70; AO No. 85-8; AO No. 88-47(S); AO No. 88-
30 82; AO No. 90-15(S); AO No. 91-173(S); AO No. 2000-105(S), § 2, 6-27-00;
31 AO No. 2018-24 , § 2, 4-10-18; AO No. 2019-109(S) , § 3, 12-3-19)

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33
34 **Section 3.** Anchorage Municipal Code section 3.30.066 is hereby amended to
35 read as follows (*the remainder of the section is not affected and therefore not set*
36 *out*):

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38 **3.30.066 Types of appointments.**

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

43 ***

44 B. *Provisional appointment.* When an agency head finds it essential to fill
45 a vacancy and the director is unable to provide full certification for such
46 a vacancy because there is no existing appropriate list, or because
47 there is an insufficient number of persons on the appropriate lists who
48 are willing to accept appointment, the director may authorize the
49 agency head to fill the vacancy by means of provisional appointment.
50 A provisional appointment is a temporary appointment and shall expire
51 when a list has been prepared and a regular appointment made, or it

1 shall expire automatically six months from the date of such
 2 appointment, except a provisional appointment by the mayor to a
 3 position subject to assembly confirmation shall expire automatically 60
 4 days from the date of such appointment.

5
 6 G. *Temporary appointment.* Appointments for short-term or seasonal
 7 employment may be made as are necessary to carry on the
 8 government business. Appointments of this type shall normally be
 9 made from established employment lists. If no list exists or if
 10 certification from lists is impracticable because of nonavailability of
 11 eligibles for temporary work, the director may authorize the temporary
 12 appointment of any qualified individual to the designated agency head.
 13 The length of a temporary appointment shall not be more than six
 14 months in any one year except where the director grants an extension
 15 because of extenuating circumstances. However, a temporary
 16 appointment by the mayor to a position subject to assembly
 17 confirmation shall not be more than 60 days from the date of such
 18 appointment, and the director may not grant an extension for any
 19 reason. The acceptance or refusal by an eligible of a temporary
 20 appointment does not affect his standing on the regular employment
 21 list. Temporary employees of a seasonal nature may have their names
 22 placed on a reemployment list to be considered for the following
 23 season.

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

45
 46 (AO No. 79-195; AO No. 94-117, § 11, 7-26-94)

47
 48 **Section 4.** This ordinance shall be effective for any person who, on the effective
 49 date of this ordinance, is or was hired, serving or receiving compensation for a
 50 provisional, temporary, acting, or other appointment capacity in a position that is,
 51 pursuant to Charter or Code, a principal executive or department head position

1 appointed by the mayor and subject to confirmation by the assembly, and has not
2 yet been confirmed. For any person described in this section, the time period
3 limitations and authority of the Assembly Chair to schedule a confirmation hearing
4 with or without a memorandum from the Mayor shall begin on the effective date of
5 this ordinance.

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

9
10 PASSED AND APPROVED by the Anchorage Assembly this _____ day
11 of _____, 2021.

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14
15
16 _____
Chair

17 ATTEST:

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20 _____
21 Municipal Clerk