

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 from 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.

A. Except as otherwise provided in this section, a [A] confirmation hearing for an appointment submitted to the assembly is scheduled pursuant to this section when:

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

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32 (AO No. 2019-109(S), § 2, 12-3-19)

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34 **Section 2.** Anchorage Municipal Code section 3.20.020 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 **3.20.020 Powers of mayor.**

- 39
- 40 A. *Appointments.* In addition to appointments as provided for in Charter
41 sections 5.02(a) and 5.03 through 5.05, the mayor shall appoint the
42 internal auditor, and all heads of municipal departments, including
43 public utilities, subject to confirmation by the assembly, and all other
44 heads of municipal agencies provided for in this chapter, without
45 assembly confirmation. All appointments under this subsection shall
46 be based upon the professional qualifications of the appointee. Except
47 as provided in this chapter, persons appointed by the mayor serve at
48 the pleasure of the mayor. Persons appointed by the mayor and
49 required to take the oath of office pursuant to section 1.35.010 shall
50 do so as soon as practicable after appointment or confirmation.
51 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., shall be deemed rejected for confirmation 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.

(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.

B. *Provisional appointment.* When an agency head finds it essential to fill a vacancy and the director is unable to provide full certification for such a vacancy because there is no existing appropriate list, or because there is an insufficient number of persons on the appropriate lists who are willing to accept appointment, the director may authorize the agency head to fill the vacancy by means of provisional appointment. A provisional appointment is a temporary appointment and shall expire when a list has been prepared and a regular appointment made, or it shall expire automatically six months from the date of such appointment, except a provisional appointment by the mayor to a position subject to assembly confirmation shall expire automatically 60

1 days from the date of such appointment.

2 *** *** ***

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

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

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

44
45 **Section 4.** This ordinance shall be effective for any person who, on the effective
46 date of this ordinance, is or was hired, serving or receiving compensation for a
47 provisional, temporary, acting, or other appointment capacity in a position that is,
48 pursuant to Charter or Code, a principal executive or department head position
49 appointed by the mayor and subject to confirmation by the assembly, and has not
50 yet been confirmed. For any person described in this section, the time period
51 limitations and authority of the Assembly Chair to schedule a confirmation hearing

1 with or without a memorandum from the Mayor shall begin on the effective date of
2 this ordinance.

3
4 **Section 5.** This ordinance shall be effective immediately upon passage and
5 approval by the Assembly.

6
7 PASSED AND APPROVED by the Anchorage Assembly this _____ day of
8 _____, 2021.

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11
12 _____
13 Chair

14 ATTEST:

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16
17 _____
18 Municipal Clerk