

**Request for City Council Action**

**Date:** November 17, 2015

<b>Agenda Section: General Business</b>  No. 6	<b>Originating Department:</b> Legal
<b>Item:</b> Ordinance Amending Title One of the Carbondale Revised Code as it Pertains to the Appointment of Employees, Officers and Departments by the City Manager.  No. 6.1	<b>Approved:</b>

**Background:**

The City of Carbondale is a “Managerially Form of Municipal Government” as outlined in 65 ILCS 5/5-1-1 et seq. Section 5/5-3-7 specifically indicates that the City Manager has the authority to exercise control over all departments and divisions and has the authority to hire all department heads under the budgetary control established by the budget passed by the Council.

Section 1-3A-4 of the Carbondale Revised Code grants the City Manager the authority to appoint all other City employees. Section 1-3A-5 of the Carbondale Revised Code indicates that the City Manager has the authority to remove all City employees who were appointed by the City manager.

In addition, the City Manager is also authorized to examine and sign City contracts authorized by the City Council “except where the Council directs that some other officer or officers shall do so.

A controversy has arisen over the authority of the City Manager to enter into unique employment contracts with new department heads. The City Council, after discussion at the November 3, 2015 council meeting, has requested that a formal ordinance be drafted for their consideration to prohibit such unique agreements.

**Recommended Action:**

It is recommended that the City Council approve the ordinance amending Title One as it relates to the appointment of directors by the City Manager.

Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
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Council Action: Motion by \_\_\_\_\_ 2nd by \_\_\_\_\_ to \_\_\_\_\_

**CITY OF CARBONDALE, ILLINOIS  
ORDINANCE NO. 2015-**

**AN ORDINANCE AMENDING TITLE ONE OF THE CARBONDALE REVISED CODE  
AS IT PERTAINS TO THE APPOINTMENT OF EMPLOYEES, OFFICERS AND  
DEPARTMENTS BY THE CITY MANAGER**

**ADOPTED BY THE CITY COUNCIL  
OF THE CITY OF CARBONDALE, ILLINOIS  
THE 17<sup>TH</sup> DAY OF NOVEMBER, 2015**

**Published in pamphlet form by authority of the City Council of the City of Carbondale,  
Jackson County, Illinois, this 18<sup>th</sup> day of November, 2015.**

**CERTIFICATE OF PUBLICATION**

**I, Jennifer R. Sorrell, the duly qualified City Clerk of the City of Carbondale,  
Illinois, and the official custodian of the records of said City, do hereby certify that this  
Ordinance was published in pamphlet form by authority of the City Council on the 18<sup>th</sup>  
day of November, 2015.**

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**Jennifer R. Sorrell, City Clerk**

**ORDINANCE NO. 2015-**

**AN ORDINANCE AMENDING TITLE ONE OF THE CARBONDALE REVISED CODE AS IT PERTAINS TO THE APPOINTMENT OF EMPLOYEES, OFFICERS AND DEPARTMENTS BY THE CITY MANAGER**

**WHEREAS**, the City of Carbondale, Illinois is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

**WHEREAS**, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

**WHEREAS**, the City Code of the City of Carbondale, Illinois, under Title 1, Chapter 3A, Section 5 outlines the appointment and removal of officers and departments of the City by the City Manager; and

**WHEREAS**, the City Council of the City of Carbondale finds it in the best interest of the City of Carbondale to amend Title 1, Chapter 3A, Section 5 of the Carbondale Revised Code as it relates to the appointment of directors by the City Manager; and

**WHEREAS**, the City Manager, under the managerially form of municipal government under Illinois law as set out in 65 ILCS 5/5-1-1 et seq. includes the authority to hire and fire all City employees, including directors of all City departments; and

**WHEREAS**, a controversy has arisen over the authority of the City Manager to enter into unique employment contracts with employees and department heads; and

**WHEREAS**, the City Council believes such unique employment contracts, outside the normal City employment rules and compensation are a matter of City policy and a legislative issue that can only be authorized by the Council itself.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE, ILLINOIS, AS FOLLOWS:**

**SECTION 1.** That Title 1, Chapter 3A, Section 4 of the Carbondale Revised Code is hereby amended to read as follows:

1-3A-4:                   **EMPLOYEES:** The city manager shall appoint, suspend or remove all employees of the city. All employees hired by the city manager shall be at such compensation as may be set or authorized by the city council. All employees shall perform their duties subject to the direction of the city manager or that of the superior to whom the city manager may assign such employee. These appointments shall be consistent with employment rules and compensation as is then currently in place for all city employees and the city manager shall not enter into unique or additional employment contract terms with the appointee without specific approval of the city council.

**SECTION 2.** That Title 1, Chapter 3A, Section 5 of the Carbondale Revised Code is hereby amended to read as follows:

1-3A-5:                   **OFFICERS AND DEPARTMENTS:**

- A.     Appointments: All directors and administrative departments of the city shall be filled by appointment by the city manager except where otherwise provided by law and this chapter; and the city manager shall report to the mayor and council such appointments, or any removal from office, made by him as soon as possible after the appointment. These appointments shall be consistent with employment rules and compensation as is then currently in place for all city employees and the city manager shall not enter into unique or additional employment contract terms with the appointee without specific approval of the city council. This authority to appoint or remove shall not be construed to include the elected officers or any commissions, boards or committees heretofore established or which may hereafter be created by council.
- B.     Removal From Office: Every administrative department of the city shall be under the supervision and control of the city manager, who shall have the power to remove from office any officer appointed by the city manager.

**SECTION 3.** All of the remaining Sections of Title 1 of the Carbondale Revised Code shall remain in full force and effect.

**SECTION 4.** That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

**SECTION 5.** The repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date hereof. The provisions of this Ordinance, insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinance.

**SECTION 6.** That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**SECTION 7.** That the City Council of the City of Carbondale finds that the subject matter of this ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to the provisions of Article VII, Section 6(a) of the 1970 Illinois Constitution.

**SECTION 8.** That this Ordinance shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: \_\_\_\_\_  
John M. Henry, Mayor

ATTEST: \_\_\_\_\_  
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

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P. Michael Kimmel, City Attorney