

Request for City Council Action

Date: December 11, 2012

Agenda Section: General Business No. 5	Originating Department: City Manager
Item: Ordinance Amending Title One, Chapter Three, Article B of the Carbondale Revised Code as it Relates to Employment of the City Clerk No. 5.1	Approved:

Background:

The Office of the City Clerk is established by the Illinois Municipal Code contained in the Illinois Compiled Statutes. The Municipal Code provides that the duties and responsibilities of the City Clerk are to keep the corporate seal of the municipality, to keep all papers belonging to the municipality which are not under the custody and control of other corporate officers, to attend all meetings of the corporate authorities and keep a full record of those proceedings and to perform other duties as prescribed by the corporate authorities.

The City Clerk in Carbondale was appointed by the Mayor throughout the twentieth century. In 1966, the Council-Manager form of government was adopted and the City Clerk continued to be appointed by the Mayor with the approval of the City Council. In 1987, Ordinance 87-38 was approved that provided the City Clerk would be appointed by the Mayor with the consent of the City Council.

In 2003, Ordinance No. 2003-14 was approved that changed the City Clerk from being appointed by the Mayor with the consent of the City Council to being appointed by the City Manager and covered under the City's Non-Bargaining Unit Employee Rules and Regulations.

In 2008, Ordinance No. 2008 - 12 was approved by the City Council that changed the position of the City Clerk from being appointed by the City Manager back to being appointed by the Mayor and the City Council.

At this time, it is the desire of the Mayor and City Council to place the City Clerk again under the daily direction of the City Manager. An ordinance is attached that provides for the City Clerk to be appointed by the City Manager with the consent of the Mayor and City Council. The City Manager will also have the authority to remove the City Clerk from office with the consent of the Mayor and the City Council. The City Clerk will be covered under the City's Non-Bargaining Unit Employee Rules and Regulations.

Recommended Action:

It is recommended that the City Council approve an ordinance amending Title One, Chapter Three, Article B of the Carbondale Revised Code as it relates to employment of the City Clerk.

Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
-------------------------------------	---------------------------------	-------------------------------	----------------------	-----------------------------------

Council Action: Motion by _____ 2nd by _____ to _____

**CITY OF CARBONDALE, ILLINOIS
ORDINANCE NO. 2012-**

**AN ORDINANCE AMENDING TITLE ONE, CHAPTER THREE, ARTICLE B
OF THE CARBONDALE REVISED CODE AS IT RELATES TO EMPLOYMENT
OF THE CITY CLERK**

**ADOPTED BY THE CITY COUNCIL
OF THE CITY OF CARBONDALE, ILLINOIS
THE 11TH DAY OF DECEMBER, 2012**

Published in pamphlet form by authority of the City Council of the City of Carbondale, Jackson County, Illinois, this 12th day of December, 2012.

CERTIFICATE OF PUBLICATION

I, Jennifer Sorrell, the duly qualified and acting Deputy 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 12th day of December, 2012.

Jennifer Sorrell, Acting City Clerk

ORDINANCE NO. 2012-

**AN ORDINANCE AMENDING TITLE ONE, CHAPTER THREE, ARTICLE B
OF THE CARBONDALE REVISED CODE AS IT RELATES TO EMPLOYMENT
OF THE CITY CLERK**

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 of Carbondale, Illinois, possesses the power to provide for the appointment, employment, compensation, discipline and dismissal of its officers and employees; and

WHEREAS, the City of Carbondale, Illinois, operates as a managerial form of municipal government pursuant to 65 Illinois Compiled Statutes 5/5-1-1 et seq.; and

WHEREAS, pursuant to the case of Clarke v. Village of Arlington Heights, 57 Ill.2d 50, 309 N.E.2d 576, (1974) home rule communities, by ordinance, may establish the City Clerk as an appointed employee who is appointed by the City Manager; and

WHEREAS, the City Manager is appointed by the City Council and the City Manager has authority to appoint all City employees; and

WHEREAS, it is the desire of the Mayor and the City Council to have the City Clerk serve as an employee under and in accordance with the Non-Bargaining Unit Employees Rules and Regulations; and

WHEREAS, the City Council of the City of Carbondale finds that the appointment of the City Clerk by the City Manager is in the best interest of the City of Carbondale and for the Clerk to serve an indefinite term as an at-will employee, under the Non-Bargaining Unit Employees Rules and Regulations of the City of Carbondale.

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

SECTION 1. That Title One, Chapter Three, Article B, Section 1 of the Revised Code of the City of Carbondale, Illinois, be deleted in its entirety and that the following be inserted in lieu thereof:

1-3B-1: EMPLOYMENT, DISCIPLINE, COMPENSATION AND RESIDENCY:

- A. The City Clerk shall be appointed by the City Manager, with the consent of the City Council, and shall serve an indefinite period as an at-will employee.
- B. The City Manager, with the consent of the City Council, may remove the City Clerk whenever the interests of the City demand removal of the Clerk who shall serve an indefinite period as an at-will employee.
- C. The City Clerk shall receive compensation in an amount to be set out in the budget established by the City Council.
- D. The City Clerk shall be governed in accordance with the Non-Bargaining Unit Employees Rules and Regulations.
- E. The City Clerk shall have the same residency requirements as City Department Heads and shall, within six (6) months of being appointed, reside within the corporate limits of the City of Carbondale as a condition of employment.
- F. The City Clerk shall, in addition to his or her other duties, work with the Mayor and City Council members concerning City business.

SECTION 2. That the City Manager of the City of Carbondale, Illinois, be and is hereby authorized to take any and all reasonable, necessary and proper action to carry out the intent and purpose of this Ordinance.

SECTION 3. All of the remaining sections of Title One 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 be known as Ordinance No. 2012- of the City of Carbondale, Illinois, and shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: _____
Joel Fritzler, Mayor

FOR: _____
AGAINST: _____
PASSED: _____
APPROVED: _____
RECORDED: _____
PUBLISHED: _____

ATTEST: _____
Jennifer Sorrell, Deputy City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney