

**BOROUGH OF AVALON
CAPE MAY COUNTY
NEW JERSEY**

Ordinance No. 882-2024

AN ORDINANCE AMENDING CHAPTER 2 OF THE AVALON BOROUGH CODE PERTAINING TO THE POSITIONS OF ASSISTANT DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS AND UTILITIES AND THE CHIEF FINANCIAL OFFICER IN THE DEPARTMENT OF REVENUE AND FINANCE AND REPEALING CONFLICTING PROVISIONS OF ORDINANCE 814-2021.

WHEREAS, the Administration has recommended to the Mayor and Borough Council that the position of Assistant Director in the Department of Public Works and Utilities (DPWU) should be reestablished and that the qualifications and duties of such position should be established, and other clarifications should be made pertaining to the DPWU; and

WHEREAS, vacancies exist in the offices of Director of Revenue and Finance and in the offices of the Chief Financial Officer (CFO) by reason of the retirement of James V. Craft effective May 31, 2024; and

WHEREAS, the Mayor has nominated and appointed Ann Degennaro as Director of Revenue and Finance which appointment was confirmed by Borough Council on May 22, 2024 pursuant to Resolution XXX-2024; and

WHEREAS, also on May 22, 2024, Borough Council has concurrently appointed Ann Degennaro as CFO, effective June 1, 2024, for a four-year term which by statute is deemed to run from January 1, 2024 of the year in which she is appointed through December 31, 2027; and

WHEREAS, due to the resignation of the Administrative Coordinator and the extended leave of absence of the Operations Coordinator, and in order to facilitate the day-to-day operations of the DPWU, the Borough appointed an Interim Assistant Director who continues to serve in that capacity; and

WHEREAS, by reestablishing the position of Assistant Director, the Borough will retain the management flexibility in filling positions as need dictates and which will promote the best interests of the Borough and the public.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL, THE GOVERNING BODY OF THE BOROUGH OF AVALON, in the County of Cape May and State of New Jersey as follows:

SECTION 1. Chapter 2 (Administration), Section 2-10 (Department of Public Works) of the Avalon Borough Code is hereby amended, in part, and as amended shall hereafter read as follows:

§ 2-10.3 **Assistant to the Director; Qualifications and Duties.**

DELETE THE FOLLOWING:

~~This position and job title are hereby abolished pursuant to Ordinance 814-2021.~~

REPLACE THE ABOVE WITH THE FOLLOWING:

a. **Appointment.** An Assistant Director of Public Works and Public Utilities may be appointed by the Mayor if, in the exercise of his discretion, it is determined that there is a need to fill such position. The Director may appoint an Assistant Director but only with the written consent and approval of the Mayor.

b. Qualifications. The Assistant Director shall have a minimum of three years of management and supervisory experience, and preferably in the public sector, and shall have the ability to manage and administer all aspects of the various functions of the DPWU. In addition, the Assistant Director shall have and possess such other experience and qualifications as set forth in the Borough's job description for this position as that may be amended and supplemented from time to time. The Assistant Director of DPWU may, but shall not be required, to hold a certified public works manager designation from the State of New Jersey.

c. Duties.

- 1) The Assistant Director shall perform such duties as may be prescribed by the Director of DPWU, or as established in a job description as the same may be amended and supplemented from time-to-time, or as directed by the Mayor or Borough Administration or as may be directed by Borough Council pursuant to Ordinance or Resolution.
- 2) In the event that the position of Administrative Coordinator is vacant for any reason, the Assistant Director shall perform the duties of such Administrative Coordinator as may be assigned by the Director.
- 3) The Assistant Director shall act in the absence of the Director and shall be responsible for the management of the DPWU in the case of absence or unavailability of the Director.

§ 2-10.4 **Administrative Coordinator — Department of Public Works and Utilities; Qualifications; Duties.**

a. Through c. [No change]

§ 2-10.5 **Operations Coordinator — Department of Public Works and Utilities; Qualifications; Duties.**

a. through c. [No change]

§ 2-10.6 **Certified Public Works Manager.**

Delete the following:

~~The Department of Public Works and Utilities (DPWU) shall have at least one individual within the managerial ranks who holds and possesses the certification of New Jersey Certified Public Works Manager or its state-approved equivalent. Such certification shall be held at all times by one or more of those individuals designated as either Director, Administrative Coordinator, or Operations Coordinator.~~

Add the following in replacement of the above:

- a. The Department of Public Works shall have a certified public works manager (CPWM) assigned thereto. This requirement may be fulfilled either (1) through a Borough employee who possesses such certification; or (2) by the Borough contracting with a third-party entity provided that such entity has on staff one or more individuals possessing the CPWM certification; or (3) by sharing the services of a CPWM with one or more other municipalities under a shared service agreement entered into pursuant to the provision of the Uniform Shared Services Act of New Jersey (P.L. 2007, c,63; C 40A:65-1 et seq.) [Source: NJ Stat. 40A:9-154.6 g]
- b. If a Borough employee (other than the Director, Assistant Director, Administrative or Operations Coordinator) serves as the CPWM, such individual shall be appointed to fulfill those responsibilities by the Mayor, or in the alternative, appointed by the Director with the express consent and approval of the Mayor.

§ 2-10.7 **Divisions Within the Department.**

DELETE THE FOLLOWING

~~The Department of Public Works and Public Utilities shall consist of the following divisions:~~

- ~~a. Division of Public Works.~~
- ~~b. Division of Fleet Management.~~
- ~~c. Division of Utilities.~~
- ~~d. Division of Solid Waste Management.~~

REPLACE THE ABOVE WITH THE FOLLOWING:

The Department of Public Works and Utilities may be organized into one or more divisions as shall be recommended by the Director and approved by the Business Administrator and subject to the approval of the Mayor. Any reorganization that calls for changes in the number of divisions, or in numbers of personnel, shall be submitted to Borough Council for its approval in accordance with § 2-4.2 of the Borough Code.

§ 2-10.8 **Other Personnel.**

[Amended 2-8-2023 by Ord. No. 855-2023]

Each Division of the Department shall have such supervisory and other personnel as may be deemed necessary by the Director, subject to the approval of, and appointment by, the Mayor, and such personnel shall perform such duties as may be prescribed by the Director. Without limiting the generality of the foregoing, other personnel may include any or all of the following:

(NOTE: An approved plan of reorganization for various departments, dated November 1, 2022, and approved by Borough Council on December 14, 2022, pursuant to Resolution No. 228-2022, and scheduled to become effective on or after January 1, 2023, and subject to the adoption of required ordinance, included the Department of Public Works and Utilities.):

- a. Supervisor of Public Works.
- b. Working foreman for each of the Divisions within the Department.

c. through f. shall be revised into a single section as follows:

Each division may have such additional employees as may be needed to effectively and efficiently accomplish the functions of the Department.

All such personnel shall be approved and appointed by the Mayor or by his designee and as approved by Borough Council, if so required. Such employees may be further classified by tier or other classification as determined by the Director of DPWU in consultation with the Human Resources Officer and the Business Administrator and as approved by the mayor.

§ 2-10.9 **Functions of Department.**

The Department of Public Works and Public Utilities ~~shall~~ **may** perform **some or** all appropriate functions associated with:

a. through m. [No change]

- a. Maintaining, constructing and reconstructing streets and drainage facilities.

SECTION 2. Chapter 2 (Administration) Section 2-11 (Department of Revenue and Finance) OF THE Avalon Borough Code is hereby amended, in part, and as amended shall hereafter read as follows:

§ 2-11 DEPARTMENT OF REVENUE AND FINANCE.

§ 2-11.3 Chief Financial Officer.

[2000 Code § 2:12-3]

REVISE TO READ AS FOLLOWS:

- a. Established.** The Borough shall appoint a licensed and qualified person as Chief Financial Officer ("CFO"). Such person shall possess a Municipal Finance Officer Certification. [Source: NJSA 40A:140.10]
- b. Appointment and Term.** The Chief Financial Officer shall be appointed by the governing body, that is, Borough Council, in consultation with the mayor. Such appointment shall be made by resolution of the governing body. The term of office shall be four (4) years beginning on January 1 of the year in which the CFO is appointed. Upon reappointment for a consecutive four-year term the CFO shall acquire tenure in office in accordance with N.J.S.A. 40A:140.8.
- c. Removal of CFO.** The CFO shall be removed from office upon failure to have a valid Municipal Finance Officer Certification. In addition, the CFO may be removed for cause upon the filing of a written complaint specifying the charge or charges with the Director of the Division of Local Government Services ("Director DLGS"). A hearing, if one is requested, shall be conducted by the Director of DLGS or the Director's designee. [Source: NJSA 40A:140.9]
- d. Statutory duties.** The "Chief financial officer" of the Borough shall mean and be the official appointed pursuant to section 5 of P.L. 1988, c.110 (C.40A:9-140.10) to be responsible for the proper financial administration of the municipality under the "Local Government Supervision Act (1947)," P.L. 1947, c.151 (C.52:27BB-1 et seq.); the "Local Bond Law," (N.J.S. 40A:2-1 et seq.); the "Local Budget Law," (N.J.S. 40A:4-1 et seq.); the "Local Fiscal Affairs Law," (N.J.S. 40A:5-1 et seq.); and the "Local Public Contracts Law," P.L. 1971, c.198 (C.40A:11-1 et seq.) unless the Borough shall have appointed a purchasing agent pursuant to that law; and such other statutes, and such rules and regulations promulgated by the Director of the Division of Local Government Services, the Local Finance Board, or any other State agency, as may pertain to the financial administration of the municipality. [Source: N.J.S. § 40A:9-140.1]
- e. CFO serving as Director.** Nothing contained herein shall be construed as preventing or prohibiting the Director of Revenue and Finance, who is appointed by the mayor with the advice and consent of the Borough Council, from also serving as the Chief Financial Officer, provided however, that if the CFO is also appointed as Director of Revenue & Finance, the CFO shall not acquire tenure as Director.

§ 2-11.4 Division of Accounts and Control.

[2000 Code § 2:12-4]

a. The Chief Financial Officer shall be the Division Head of the Division of Accounts and Control and shall be responsible for the functions and operations of the division as herein specified.

b. Functions of Division. **[No change]**

ADD A NEW SECTION AS FOLLOWS:

c. Other Personnel. This division may have such additional personnel as may be approved by the mayor or borough council and subject to annual appropriations in the municipal budget and provided that such positions are included in the Borough salary ordinance.

SECTION 3. REPEALER. All Ordinances or parts of Ordinances which are in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency or conflict only. Without intending to limit the generality of the forgoing, those provisions of Ordinance 814-2021 which abolished the position of ‘Assistant Director’ of the Department of Public Works and Utilities are expressly repealed by this Ordinance.

SECTION 4. SEVERABILITY. If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 5: EFFECTIVE DATE: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed on first reading of the Municipal Council of the Borough of Avalon on June 12, 2024. It will be further considered for second reading, public hearing and final adoption at a meeting of said Council to be held on the 10th day of July, 2024 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 4:00 pm and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk’s Office in said Municipal Building to the members of the general public who shall request the same.

C. DANIELLE NOLLETT
Borough Clerk