Ray O'Connell, President
Julio A. Guridy, Vice President
Joseph Davis
Jeanette Eichenwald
Jeff Glazier
Daryl Hendricks
Cynthia Y. Mota

Allentown City Council
435 Hamilton Street
Allentown, Pa. 18101
AllentownPa.Gov

Facebook: Allentown City Council

COUNCIL MEETING
February 18, 2015
COUNCIL CHAMBERS

Black History Month Celebration – 4:00 – 6:45 PM – Council Chambers

COUNCIL MEETING – 7:00 PM

1. Invocation: Minister Timothy Smith, New Christian Harvest Church

2. Pledge to the Flag

3. Roll Call

4. Courtesy of the Floor

Courtesy and Privilege of the Floor Rules

Please observe the Rules of Council when addressing the body. A full copy of Council Rules can be found on the city website or by email if you contact Council office.

There are multiple opportunities to address Council. Individuals can speak during Courtesy of the Floor (addressing items not on the agenda) and during Bills and Resolutions on Final Passage and Introduction. When given the Floor, please go to the podium and state your name and address. All remarks must be directed towards the presiding officer or council as a body; not a particular Council member or elected official, the audience or city staff. Unless otherwise determined, individuals shall have three minutes to address council and individuals representing a bona-fide group shall have five minutes. Privilege of the Floor will not be extended for personal insults or personal attacks on any individual, name calling or other behavior that is inconsistent with the purpose and intent of conducting official business. Please address council as a body. Refrain from using offensive language, cursing and making noises while other people are speaking. Act with decorum. Remove your hat and turn cell phones off.

5. Approval of Minutes: February 4, 2015
6. Old Business
7. Communications

8. <u>REPORTS FROM COMMITTEES:</u>
Budget and Finance: Chairperson Glazier
Public Safety: Chairperson Eichenwald
Community and Economic Development: Chairperson Guridy
Parks and Recreation: Chairperson Mota
Public Works: Chairperson Davis
Human Resources, Administration and Appointments: Chairperson Hendricks
Rules, Chambers, Intergovernmental Relations and Strategy: Chairperson O'Connell

OTHER COMMITTEE REPORTS
City Controller's Report
Managing Director's Report

9. APPOINTMENTS: None

10. ORDINANCES FOR FINAL PASSAGE (To be Voted On): None

11. RESOLUTIONS FOR FINAL PASSAGE (To be Voted On): None

12. ORDINANCES FOR INTRODUCTION (To be referred to Committee with public comment prior to referral)

Bill 7 Food Service Ordinance `Refer to CEDC
An Ordinance repealing subchapter A through subchapter G, inclusive, of Ordinance 14189 as amended, Article 1123 of the codified ordinances with respect to food service sanitation in their entirety to conform to the state Retail Food Facility Safety Act of Nov. 23, 2010, P.L. 1039, No. 106, amending subchapter H with respect to administration by substituting statutory references in section 1123.1102(a), by deleting sections 1123.1102(c) through 1123.1104 and section 1123.1121 through section 1123.1142, by renaming section 1123.1143, by deleting section 1123.1143 (a) through 1123.1143(c), by adding a new section 1123.1143(a) and re-lettering the remaining sections of section 1123.1143, by deleting section 1123.1144 and by adding violation tickets to section 1123.1147 for violations thereof and repealing all other ordinances inconsistent herewith.

Bill 8 LV Kennel Club Donation Refer to Public Safety
Amending the 2015 General Fund Budget to provide for a supplemental appropriation of $1,500.00 as a result of a donation from the Lehigh Kennel Club to the Police Department for the purchase of K-9 equipment.

Bill 9 Safe and Health Communities Grant Refer to CEDC
Amending the 2015 General Fund Budget to provide for a supplemental appropriation of $40,425 from a Commonwealth of PA Department of Health grant, to the Health Department to expand services under the Safe and Healthy Communities Grant related to the reduction of cardiovascular disease and to increase breastfeeding rates.

13. RESOLUTIONS FOR INTRODUCTION (Can be voted on or Referred to Committee):

R9 Civic Theature RCAP Refer to CEDC
Authorizes the City to submit the application for Two Million ($2,000,000) Dollars in Redevelopment Assistance Capital Grant Funding to the Commonwealth of Pennsylvania for Civic Theatre

14. NEW BUSINESS
15. GOOD AND WELFARE
16. ADJOURNED

ORDINANCE NO.

FILE OF CITY COUNCIL

BILL NO. 7 - 2015

February 18, 2015

AN ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLENTOWN, PENNSYLVANIA, REPEALING SUBCHAPTER A THROUGH SUBCHAPTER G, INCLUSIVE, OF ORDINANCE NO 14189, NOW ARTICLE 1123 OF THE CODIFIED ORDINANCES OF THE CITY OF ALLENTOWN WITH RESPECT TO FOOD SERVICE SANITATION IN THEIR ENTIRETY TO CONFORM TO THE STATE RETAIL FOOD FACILITY SAFETY ACT OF NOV. 23, 2010, P.L. 1039, NO. 106, AMENDING SUBCHAPTER H WITH RESPECT TO ADMINISTRATION BY SUBSTITUTING STATUTORY REFERENCES IN SECTION 1123.1102(a), BY DELETING SECTIONS 1123.1102(c) THROUGH 1123.1104 AND SECTION 1123.1121 THROUGH SECTION 1123.1142, BY RENAMING SECTION 1123.1143, BY DELETING SECTION 1123.1143 (a) THROUGH 1123.1143(c), BY ADDING A NEW SECTION 1123.1143(a) AND RE-LETTERING THE REMAINING SECTIONS OF SECTION 1123.1143, BY DELETING SECTION 1123.1144 AND BY ADDING VIOLATION TICKETS TO SECTION 1123.1147 FOR VIOLATIONS THEREOF AND REPEALING ALL OTHER ORDINANCES INCONSISTENT HEREWITH.

WHEREAS, the City adopted Ordinance No. 14189 on June 4, 2004, now Article 1123 (Food Service Sanitation) of the Codified Ordinances under which the City regulates the management, personnel, operations and equipment of food service facilities pursuant to the Pennsylvania Food Law, Act 70 of 1994; and

WHEREAS, the General Assembly enacted a new food safety statute, that became effective on January 22, 2011, entitled the Retail Food Facility Safety Act of Nov. 23, 2010, P.L. 1039, No. 106, 3 Pa.C.S.A § 5701 et.seq. ("Act 106 of 2010") which governs licensing, inspection and regulation of public eating and drinking places and retail food establishments and repealed the Pennsylvania Food Law, Act 70 of 1994; and

WHEREAS, with the passage of Act 106 of 2010, the regulatory Subchapters of Ordinance No. 14189, namely, Subchapters A through Subchapter G, inclusive, were abrogated and, as a licensing agency, the City must enforce the state statute, Act 106 of 2010, and the regulations promulgated thereunder as amended from time to time; and

WHEREAS, the City desires to defer to the state Department of Agriculture to issue variance, modifications and waivers from the requirements of the food service regulations; and

WHEREAS, the City desires to impose violation tickets, in addition to other available remedies, for the violation of the provisions of this Ordinance; and

WHEREAS, the City Council of the City of Allentown deems it appropriate and in the best interests of the public health, safety and welfare of the community to amend Ordinance No. 14189, now Article 1123 of the Codified Ordinances as set forth in the TITLE hereto and as more fully set forth below:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLENTOWN AS FOLLOWS:

Section 1. Subchapters A through G, inclusive, of Article 1123 of the Codified Ordinances of the City of Allentown are hereby repealed in their entirety.

Section 2. The reference to the Public Eating and Drinking Places Law 369, the Food Act 70 is deleted and a reference to the Retail Food Facility Safety Act of Nov. 23, 2010, P.L. 1039, No. 106, 3 Pa.C.S. Section 5701 et. seq.)"Act 106 of 2010") is hereby added to Subchapter H (Administrative Procedures and Remedies), Section 1123.1102(a).

Section 3. Sections 1123.1102(c) through Section 1123.1104, inclusive, and Section1123.1121 through Section 1123.1142 of Subchapter H (Administrative Procedures and Remedies) are hereby deleted.

Section 4. Section 1123.1143 of Subchapter H (Administrative Procedures and Remedies) is hereby renamed from "Issuance" to "Licenses."

Section 5. Sections 1123.1143(a) through 1123.1143(c) of Subchapter H (Administrative Procedures and Remedies) are hereby deleted.

Section 6. Section 1123.1143 of Subchapter H (Administrative Procedures and Remedies) is amended to add the following new Paragraph (a) and re-lettering the remaining Paragraphs to (b) through (g)

(a) In order to be eligible for licensure, a food facility applicant must be determined to be in compliance with the requirements of this Article, the applicable state statutes and regulations and all other applicable City ordinances and regulations, including, but not limited to, Building, Zoning and Fire Prevention Codes, Business Privilege Tax, Earned Income Tax, Occupational Privilege Tax and Solid Waste and Recycling regulations.

Section 7. Section 1123.1144 of Subchapter H (Administrative Procedures and Remedies) is hereby deleted.

Section 8. Section 1123.1147 of Subchapter H (Administrative Procedures and Remedies) is hereby amended to add new Section 1123.1147(d) (Violation Tickets) as a remedy for violations of this Article as follows:

(d) Violation Tickets

(1) Definition of Term: Violation Ticket

A violation ticket is a form issued by the Director of Health or his designee to a person who violates a provision of this Article. The violation ticket is an offer by the City of Allentown extended to a person to settle a violation by paying the fine in lieu of a citation being issued against the violator.

(2) Enforcement

(i) In addition to any other enforcement actions (e.g., suspensions, summary citations) imposed by the Bureau of Health in accordance with this Article for violations Any violation of the provisions of this Article may also be cause for a violation ticket and/or a notice of violation to be issued to the violator.

(ii) A notice of violation or violation ticket shall be served upon a violator by handing it to the violator, by handing it to the person in charge of the food service facility, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

(iii) Each day a violation continues or is permitted to continue may constitute a separate offense for which a separate violation ticket may be imposed.

(iv) The Director of Health or his designee is authorized and empowered to cause a violation to be corrected.

(v) If the City has affected the correction of the violation, the cost thereof may be charged to the owner of the facility or offending party. The cost shall be determined by the Director of Health or designee in order that the City shall be compensated for both direct and indirect costs and expenses incurred.

Section 9. Section 1123.1147 of Subchapter H (Administrative Procedures and Remedies) is hereby amended to add new Section 1123.1147(e) (Violation Ticket Fines and Penalties) as follows:

(e) Violation Ticket Fines and Penalties

(1) Definition of Terms: Good Retail Practices and Risk Factor Violations

The Commonwealth of Pennsylvania has adopted the Model Food Code which is the most current edition of the Food Code published by the US Department of Health and Human Services, Food and Drug Administration (FDA). 7 Pa. Code 46.4. The City uses the Model Food Code. The terms "Good Retail Practices" and "Risk Factor Violations", as used in this Section, shall have the meanings ascribed to them in the FDA Food Code, 2013, Annex 7, Part 3, Inspection Form 3-A (Food Establishment Inspection Report), as amended.

(2) Violation Ticket Fines

(i) Tickets issued for violations designated as "Good Retail Practices" on the official Inspection Form utilized by the Bureau of Health shall be:

For the year 2015: Twenty- five ($25.00) Dollars;
For the year 2016: Thirty-five ($35.00) Dollars;
For the year 2017 and each subsequent year thereafter: Forty-five ($45.00) Dollars.

(ii) Tickets issued for violations designated as 'Risk Factor Violations' on the official inspection form utilized by the Bureau of Health shall be:

For the year 2015: Fifty ($50.00) Dollars;

For the year 2016: Seventy-five ($75.00) Dollars;
For the year 2017 and each subsequent year thereafter: One hundred ($100.00) Dollars.

(iii) Any person who receives a violation ticket for any violation of this Article, may within ten (10) days, admit the violation, waive a hearing and pay the fine in full, as indicated on the violation ticket.

(3) Violation Ticket Late Payment Penalties

(a) If the person in receipt of a violation ticket issued for a Good Retail Practice does not pay the fine or file an appeal within ten (10) days of receipt of the violation ticket, the person will be subject to a late payment penalty of ten dollars ($10.00) for days eleven (11) through twenty (20).

(b) If the person in receipt of a violation ticket issued for a Risk Factor Violation does not pay the fine or file an appeal within ten (10) days of receipt of the violation ticket, the person will be subject to a late payment penalty of twenty-five dollars ($25) for days eleven (11) through twenty (20).

(c) Failure of the person to make payment within twenty (20) days shall make the person subject to a Summary Offense under Subparagraph (a) of Section 1123.1147 of this Article.

(i) Violation Process Ticket Appeals

(a) A person in receipt of a violation ticket may appeal to the Bureau of Health by filing a request within ten (10) days of receipt of the violation ticket.

(b) A Hearing Officer, designated by the Director of the Bureau of Health, may uphold the Appeal, deny the Appeal or may modify the violation ticket and/or any associated costs, fines or penalty amounts.

Section 10. Repealer.

All Ordinances or parts of Ordinances inconsistent herewith be and the same are hereby repealed.

Section 11. Severability.

If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance, which provisions shall remain in full force and effect.

Section 12. Effective Date.

That this Ordinance will take effect ten (10) days after final passage.

- **What Department or bureau is Bill originating from? Where did the initiative for the bill originate?**

  Health Bureau

- **Summary and Facts of the Bill**

  Act 106 of 2010, P.L. 1039, 3 Pa. C.S. Section 5701 et. seq., known as the Retail Food Safety Act, requires all local food regulatory agencies to enforce the state regulations. Final Regulations promulgated under the act were published in April, 2014 in the Pa Bulletin. Now that the regulations are final it is appropriate to delete those portions of the City ordinance that conflict with them.

- **Purpose – Please include the following in your explanation:**
  - **What does the Bill do – what are the specific goals/tasks the bill seek to accomplish**
  - **What are the Benefits of doing this/Down-side of doing this**
  - **How does this Bill related to the City's Vision/Mission/Priorities**

  The proposed amendments bring conformance with current state law and remove any source of confusion on the part of the regulated facilities within this jurisdiction as to what set of regulations are applicable.

- **Financial Impact – Please include the following in your explanation:**
  - **Cost (Initial and ongoing)**
  - **Benefits (initial and ongoing)**

  No cost impact; benefits include: 1) statewide uniformity which eases the ability of foodservice operators who operate in various jurisdictions to remain in compliance and; 2) the ability to issue violation tickets as a new enforcement tool will be benefit the city in terms of food safety and revenue.

- **Funding Sources – Please include the following in your explanation:**
  - **If transferring funds, please make sure bill gives specific accounts; if appropriating funds from a grant list the agency awarding the grant.**

  Not applicable

- **Priority status/Deadlines, if any**

  Passage will bring City into compliance with State law.

- **Why should Council unanimously support this bill?**

  Passage will enable the City to conform to state law and no longer necessitate amending the foodservice ordinance each time the FDA Model Code (on which the state regulations are based) is updated.

Administration

ORDINANCE NO.

FILE OF CITY COUNCIL

BILL NO. 8 - 2015

February 18, 2015

AN ORDINANCE

Amending the 2015 General Fund Budget to provide for a supplemental appropriation of $1,500.00 as a result of a donation from the Lehigh Kennel Club to the Police Department for the purchase of K-9 equipment.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION ONE: That City Council authorizes an increase to the unappropriated balance of the 2015 General Fund in the amount of $1,500 reflecting receipt of monies from donation to the Police Department for the purchase of K-9 equipment.

SECTION TWO: That City Council authorizes a supplemental appropriation from the unappropriated balance of the General Fund to the Police Department as follows:

000-04-0802-0001-68 (Supplies) $1,500.00

SECTION THREE: That this Ordinance will take effect ten (10) days after final passage.

SECTION FOUR: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

- **What Department or bureau is Bill originating from? Where did the initiative for the bill originate?**

  This bill originated from the Police Department

- **Summary and Facts of the Bill**

  This bill reflects the receipt of $ 1,500.00 from a donation by Lehigh Valley Kennel CLub to be used towards Police K-9 equipment.

- **Purpose – Please include the following in your explanation:**
  - **What does the Bill do – what are the specific goals/tasks the bill seek to accomplish**
  - **What are the Benefits of doing this/Down-side of doing this**
  - **How does this Bill related to the City's Vision/Mission/Priorities**

  This will provide equipment and offset the costs of necessary equipment for our Police K-9.

- **Financial Impact – Please include the following in your explanation:**
  - **Cost (Initial and ongoing)**
  - **Benefits (initial and ongoing)**

  Donation to offset the costs of necessary K-9 equipment.

- **Funding Sources – Please include the following in your explanation:**
  - **If transferring funds, please make sure bill gives specific accounts; if appropriating funds from a grant list the agency awarding the grant.**

  Donation

- **Priority status/Deadlines, if any**

- **Why should Council unanimously support this bill?**

  Donation to support necessary K-9 equipment for the Police Department

Administration

ORDINANCE NO.

FILE OF CITY COUNCIL

BILL NO. 9 - 2015

February 18, 2015

AN ORDINANCE

Amending the 2015 General Fund Budget to provide for a supplemental appropriation of $40,425 from a Commonwealth of PA Department of Health grant, to the Health Department to expand services under the Safe and Healthy Communities Grant related to the reduction of cardiovascular disease and to increase breastfeeding rates.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION ONE: That City Council authorizes an increase to the unappropriated balance of the 2015 General Fund in the amount of $40,425 reflecting receipt of monies from a PA Department of Health grant to provide additional services in the reduction of cardiovascular disease as well as to increase breastfeeding rates.

SECTION TWO: That City Council authorizes a supplemental appropriation from the unappropriated balance of the General Fund to the Health Department as follows:

000-09-0908-0003-34	Training & Professional Development	2,500
000-09-0908-0003-46	Other Contract Services	12,425
000-09-0908-0003-68	Operating Materials & Supplies	1,500
000-09-0908-0003-72	Equipment	24,000

SECTION THREE: That this Ordinance will take effect ten (10) days after final passage.

SECTION FOUR: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

- **What Department or bureau is Bill originating from? Where did the initiative for the bill originate?**

  The bill originated from the Department of Community Development, Bureau of Health. $60,000 in new funds are being provided by the Pennsylvania Department of Health, Division of Health Risk Reduction to expand services for a Safe and Healthy Communities grant.

- **Summary and Facts of the Bill**

  Amending the 2015 General Fund Budget to provide for a new appropriation of Forty Thousand Four Hundred Twenty Five Dollar ($40,425) from the Pennsyvania Department of Health.

- **Purpose – Please include the following in your explanation:**
  - **What does the Bill do – what are the specific goals/tasks the bill seek to accomplish**
  - **What are the Benefits of doing this/Down-side of doing this**
  - **How does this Bill related to the City's Vision/Mission/Priorities**

  The purpose of the funding is to increase access to breastfeeding friendly environments in worksites and to support the national Million Hearts initiative through planning and hosting a workshop to identify and discuss collaborative opportunities with local partners in preventing heart attacks and strokes.

  The Bill will: 1) support healthier lifestyles by increasing breastfeeding rates through ensuring workplace compliance with the federal lactation accommodation law and; 2) reduce the burden of cardiovascular disease in the City of Allentown.

  The bill is congruent with the Mayor's stated goal of improving the health and safety of the citizens of Allentown, particularly in the area of preventing chronic disease.

- **Financial Impact – Please include the following in your explanation:**
  - **Cost (Initial and ongoing)**
  - **Benefits (initial and ongoing)**

  Total funding is $60,000 of which $19,575 will be utilized for currently budgeted staff wages while the remaining $40,425 will fund new expenditures that will enhance the ability to prevent chronic disease in the community, through new programming designed to prevent heart attacks and strokes.

- **Funding Sources – Please include the following in your explanation:**
  - **If transferring funds, please make sure bill gives specific accounts; if appropriating funds from a grant list the agency awarding the grant.**

- **Priority status/Deadlines, if any**

  These funds must be expended by 6/30/2015.

- **Why should Council unanimously support this bill?**

  The bill allows us to increase grant revenue and cover additional expenses for the Nutrtion & Physical Activity Program for prevention of chronic diseases. The award covers the Health Department burden on the general fund.

CITY OF ALLENTOWN

9 **RESOLUTION** R - 2015

Introduced by the Administration on February 18, 2015

Civic Theatre Redevelopment Assistance Capital Grant

Resolved by the Council of the City of Allentown, That

WHEREAS, Pennsylvania Governor Tom Corbett authorized the release of Two Million Dollars ($2,000,000) of Redevelopment Assistance Capital Grant Funding for the improvements to the Civic Theatre; and

WHEREAS, the City of Allentown will serve as the grantee and the project administrator of these funds and Civic Theatre will serve as the sub-grantee and the actuary recipient of these funds.

NOW, THEREFORE, BE IT RESOVLED by the Council of the City of Allentown that they hereby authorizes the City to submit the application for Two Million ($2,000,000) Dollars in Redevelopment Assistance Capital Grant Funding to the Commonwealth of Pennsylvania.

- **What Department or bureau is Bill originating from? Where did the initiative for the bill originate?**

Mayor's Office

- **Summary and Facts of the Bill**

Resolution is necessary in order to submit application for the RACP grant for the improvements to the Civic Theater.

- **Purpose – Please include the following in your explanation:**
    - **What does the Bill do – what are the specific goals/tasks the bill seek to accomplish**
    - **What are the Benefits of doing this/Down-side of doing this**
    - **How does this Bill related to the City's Vision/Mission/Priorities**

The resolution allows the City to submit an RACP application for the Civic Theater project.

- **Financial Impact – Please include the following in your explanation:**
    - **Cost (Initial and ongoing)**
    - **Benefits (initial and ongoing)**

The sub-grantee fronts the cost for construction so the City does not incur the costs. Once the City invoices and receives the funds, the City will appropriate the funds and provide payment to the sub-grantee.

- **Funding Sources – Please include the following in your explanation:**
    - **If transferring funds, please make sure bill gives specific accounts; if appropriating funds from a grant list the agency awarding the grant.**

The Redevelopment Assistance Capital Program (RACP) from the PA Office of the Budget is providing funding for this project.

- **Priority status/Deadlines, if any**

Not applicable

- **Why should Council unanimously support this bill?**