

Attachment A

ORDINANCE NO. 2452

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VICTORVILLE, CALIFORNIA, AMENDING CHAPTERS 2.04, 2.08, AND 2.22 OF THE VICTORVILLE MUNICIPAL CODE TO: (1) FURTHER DEFINE THE POWERS AND DUTIES OF THE CITY MANAGER; (2) FORMALLY AUTHORIZE THE USE OF INSURANCE IN LIEU OF STATUTORY FAITHFUL PERFORMANCE BONDS FOR THE OFFICES OF CITY MANAGER, CITY CLERK, AND CITY TREASURER; AND (3) UPDATE THE CITY'S MUNICIPAL CODE PROVISIONS RELATING TO THE CITY'S PERSONNEL MERIT SYSTEM

WHEREAS, the City Council of the City of Victorville (the "City") has heretofore adopted various ordinances describing the powers and duties of its various officers and establishing a personnel system which are codified in Title 2 of the Victorville Municipal Code ("VMC"); and

WHEREAS, many of these ordinances were originally adopted nearly fifty years ago, and despite having been amended from time-to-time to reflect changing laws and City practices, several chapters have been identified as needing comprehensive revisions for clarity and to reflect the City's current organization, practices, and rapidly evolving laws, particularly those involving labor and personnel; and

WHEREAS, the City Council wishes to adopt this Ordinance in order to: (1) clarify and update the functions and duties of the City Treasurer and City Clerk to reflect current City practices; (2) permit governmental crime insurance policies to be utilized for certain city officers in lieu of bonds; (3) delegate authority to the City Manager to amend and adopt Personnel Rules and Regulations for the City; (4) specify that the current Personnel Rules and Regulations will remain in place pending adoption of amendments by the City Manager; and (5) amend and clarify the powers and duties of the City Manager with respect to his current designation as the personnel officer of the City; and (5) revise and modernize certain outdated provisions of Title 2 of the VMC.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VICTORVILLE DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals.

The recitals set forth above are true and correct, and are hereby incorporated by this reference as if set forth in their entirety.

Section 2. Amendment of Chapters 2.04, 2.08 and 2.22 of Title 2 of the Victorville Municipal Code.

CHAPTERS 2.04 ("CITY MANAGER"); 2.08 ("OFFICERS GENERALLY"); AND CHAPTER 2.22 ("PERSONNEL MERIT SYSTEM") OF TITLE 2 OF THE VICTORVILLE MUNICIPAL CODE ARE EACH HEREBY AMENDED IN THEIR ENTIRETY TO READ AS FOLLOWS:

Chapter 2.04 - CITY MANAGER

2.04.010 - Appointment and termination.

The office of the city manager is created and established pursuant to provisions of Section 34851, et seq. of the Government Code. The city manager shall be appointed by the city council and shall hold office at the will and pleasure of the city council. Unless expressly provided otherwise in an employment agreement entered into pursuant to Section 2.04.290, the city manager may be removed from office and terminated as an employee of the city by a majority vote of the city council, without cause or justification and without right of appeal or hearing.

2.04.040 – Bond or faithful performance of duty insurance policy.

The city manager shall furnish a corporate surety bond to be approved by the city council in such sum as may be determined by the city council and shall be conditioned upon the faithful performance of the duties imposed upon the city manager as prescribed in this chapter. Any premium for such bond shall be a proper charge against the city. In the alternative, the city council may approve procurement and maintenance by the City of a government crime insurance policy or employee dishonesty insurance policy, including faithful performance of duty coverage for the city manager, pursuant to Government Code section 1463. The premium for such bond or insurance policy shall be a proper charge against the City.

2.04.050 - Acting city manager.

The city manager, by a letter filed with the city clerk, shall designate a qualified city administrative officer to exercise the powers and perform the duties of manager during his or her temporary absence or disability. In the event the city manager's absence or disability extends over a six-month period, the city council may, after the six-month period, appoint an acting city manager. The qualified city administrative officer acting as city manager shall comply with the provisions of Section 2.04.040.

2.04.060 - Compensation.

The city manager shall receive such compensation and expense allowances as the city council shall from time to time determine, and said compensation and expenses shall be a proper charge against such funds of the city as the city council shall designate.

2.04.070 - Powers and duties.

The city manager shall be the administrative head of the government of the city under the direction and control of the city council except as otherwise provided in this chapter. The city manager shall be responsible for the efficient administration of all the affairs of the city which are under his or her control. In addition to the city manager's general powers as administrative head, and not as a limitation thereon, it shall be the city manager's duty and he or she shall have the powers set forth in Sections 2.04.080 through 2.04.100.

2.04.080 - Law enforcement.

It shall be the duty of the city manager to enforce all laws and ordinances of the city and to see that all franchises, contracts, permits and privileges granted by the city council are faithfully observed.

2.04.090 - Authority over employees.

It shall be the duty of the city manager and he or she shall have the authority to control, order and give directions to all heads of departments and to subordinate officers and employees of the city under his or her jurisdiction.

2.04.100 - Power of appointment and removal.

It shall be the duty of the city manager to and he or she shall appoint, remove, promote and demote any and all subordinate appointive officers and employees of the city, but excepting the city attorney, subject to all applicable personnel ordinances, rules and regulations. The city manager shall appoint, remove, promote and demote the city clerk and city treasurer.

2.04.110 - Administrative reorganization of offices.

It shall be the duty and responsibility of the city manager to conduct studies and effect such administrative reorganization of offices, positions or units under his or her direction as may be indicated in the interest of efficient, effective and economical conduct of the city's business.

2.04.120 - Ordinances.

It shall be the duty of the city manager and he or she shall recommend to the city council for adoption such measures and ordinances as he or she deems necessary.

2.04.130 - Attendance at council meetings.

It shall be the duty of the city manager to attend all meetings of the city council unless excused therefrom by the mayor individually or city council as a whole, except when his or her removal is under consideration.

2.04.140 - Financial reports.

It shall be the duty of the city manager to keep the city council at all times fully advised as to the financial condition and needs of the city.

2.04.150 - Budget.

It shall be the duty of the city manager to prepare and submit the proposed annual budget and the proposed annual tables of classification and compensation for employees to the city council for its approval.

2.04.160 - Purchasing agent.

It shall be the duty of the city manager and he or she shall be responsible for the purchase of all supplies for all the departments or divisions of the city. No expenditures shall be submitted or recommended to the city council except on report and approval of the city manager.

2.04.170 - Investigations and complaints.

It shall be the duty of the city manager to make investigations into the affairs of the city and any department or division thereof, and any contract or the proper performance of any obligations of the city. Further, it shall be the duty of the city manager to investigate all complaints in relation to matters concerning the administration of the city government and in regard to the service maintained by public utilities in the city.

2.04.180 - Public buildings.

It shall be the duty of the city manager and he or she shall exercise general supervision over all public buildings, public parks and all other public property which are under the control and jurisdiction of the city council.

2.04.190 - Hours of employment.

It shall be the duty of the city manager to devote his or her entire time to the duties of his or her office and in furthering the interests of the city.

2.04.200 - Additional duties.

It shall be the duty of the city manager to perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance or resolution or other official action of the city council.

2.04.210 - Council-manager relations.

The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the city council nor any member thereof shall give orders to any subordinates of the city manager. The city manager shall take orders and instructions from the city council only when sitting in a duly convened meeting of the city council, and no individual councilmember shall give any orders or instructions to the city manager.

2.04.220 - Departmental cooperation.

It shall be the duty of all subordinate officers and the city attorney to assist the city manager in administering the affairs of the city efficiently, economically and harmoniously.

2.04.230 - Attendance at commission meetings.

The city manager may attend any and all meetings of the planning commission and any other commissions, boards or committees created by the city council, upon the city manager's own volition or upon direction of the city council. At such meetings which the city manager attends, the city manager shall be heard by such commissions, boards or committees as to all matters upon which he or she wishes to address the members thereof, and the city manager shall inform said members as to the status of any matter being considered by the city council, and he or she shall cooperate to the fullest extent with the members of all commissions, boards or committees appointed by the city council.

2.04.280 - Limitation on removal.

Notwithstanding the at-will employment provisions of Section 2.04.010, the city manager shall not be removed from office, other than for misconduct in office, for a period of ninety (90) days prior to and one hundred eighty (180) days following any general municipal, special, or recall election held in the city at which election a member of the city council is elected. The purpose of this provision is to allow any newly-elected member of the city council or a reorganized city council to observe the actions and ability of the city manager in the performance of the powers and duties of his/her office. After expiration of the aforementioned pre and post-election time periods, the at-will employment provision of Section 2.04.010 shall apply and be effective.

2.04.290 - Agreements on employment.

Nothing in this chapter shall be construed as a limitation on the power or authority of the city council to enter into any supplemental agreement with the city manager delineating additional terms and conditions of employment not inconsistent with any provisions of this chapter.

2.04.300 - Approval of warrants/demands.

It shall be the duty and responsibility of the city manager to review, process, reject and/or approve claims, demands and warrants in accordance with the applicable provisions of Chapter 2.24 of this Code.

2.04.310 - Substitution of titles.

Wherever the words "city administrator" appear in the Victorville Municipal Code or in any ordinance, resolution, contract or any other document or record of the city, the words "city manager" shall be substituted in lieu thereof.

Chapter 2.08 - OFFICERS GENERALLY

2.08.010 - Assessor and tax collector—Transfer of duties to county officers.

Pursuant to the authority granted by Section 51501 of the California Government Code, the assessment and tax collection duties performed by the city assessor and tax collector are transferred to the assessor and tax collector of the county.

2.08.020 - Assessor and tax collector—Abolishment of offices.

The offices of city assessor and tax collector are abolished.

2.08.030 - Assessor and tax collector—Transfer of duties to city treasurer.

Pursuant to the authority granted by Section 51507 of the California Government Code, the duties of the city assessor, other than the assessing of city property and the duties of the tax collector, other than the collection of taxes, originally transferred to the city clerk are transferred to and shall be performed by the city treasurer.

2.08.035 - City treasurer – Other duties transferred.

Pursuant to Section 34004 of the California Government Code, the financial and accounting duties imposed upon the city clerk by Sections 40802 through 40805 thereof are also transferred to the city treasurer, who shall perform those duties and such other duties as are required by law or designated by the city manager.

2.08.040 - City clerk—Duties.

Any applications required to be filed with the city or fees required to be paid to the city, pursuant to the provisions of this code, shall be filed with or paid to the city clerk, unless otherwise by this code provided.

2.08.050 - City clerk—Bond or faithful performance of duty insurance policy.

The city clerk upon the entry to his or her duties of office shall execute a bond to the city in

conformity with bonds of public officers, and in conformity with the provisions of the Government Code of the state relating thereto, in the amount of five thousand dollars or such reasonable amount as the city council may determine from time to time by resolution. In the alternative, the city council may approve procurement and maintenance by the city of a government crime insurance policy or employee dishonesty insurance policy, including faithful performance of duty coverage for the city clerk, pursuant to Government Code section 1463. The premium for such bond or insurance policy shall be a proper charge against the city.

2.08.060 - City treasurer—Bond or faithful performance of duty insurance policy.

The city treasurer upon the entry of office shall execute a bond to the city in conformity with bonds of public officers, and in conformity with the provisions of the Government Code of the state relating thereto, in the amount of five thousand dollars or such reasonable amount as the City Council may determine from time to time by resolution. In the alternative, the city council may approve procurement and maintenance by the city of a government crime insurance policy or employee dishonesty insurance policy, including faithful performance of duty coverage for the City Treasurer, pursuant to Government Code section 1463. The premium for such bond or insurance policy shall be a proper charge against the City.

2.08.070 - Removal of papers or documents from city offices.

No person, unless authorized by the city clerk or the city manager, shall remove any official records or documents from the city offices.

**Chapter 2.22 - MERIT SYSTEM FOR PERSONNEL ADMINISTRATION
(formerly titled “Personnel Merit System”)**

2.22.010 - Adoption of merit system for personnel administration.

In order to establish an equitable and uniform procedure for dealing with personnel matters, to attract to municipal service the best, most competent persons available, to assure that appointments and promotions of employees to the competitive service will be based on merit and fitness and to provide a reasonable degree of security for qualified employees the personnel system set out in this chapter is adopted.

2.22.020 - Personnel system of the city.

The merit system for personnel administration created and established in Section 2.22.010, and all of its benefits are extended to and, by this section, includes all regular and permanent employees, members of all departments of the city who are members of the State Employees' Retirement System subject to the provisions of the State Employees' Retirement Act of the state of California, except elected officials and those expressly excluded in Section 2.22.030 hereof.

2.22.030 – Exclusions from the Competitive service.

Provisions of this chapter shall apply to all officers and employees in the service of the city, except:

- (a) Elected officials;

- (b) City manager, assistant city managers, and deputy city managers;
- (c) Department heads or equivalent (as designated on the table of organization adopted by the City Council);
- (d) Members of appointive board commissions, committees and agencies;
- (e) Contract employees;
- (f) Volunteer personnel;
- (g) City attorney;
- (h) City Clerk;
- (i) City Treasurer;
- (j) Emergency employees (who are hired to meet the immediate requirements of an emergency condition, such as an extraordinary fire, flood, earthquake, etc., which threatens life or property);
- (k) Part-time employees;
- (l) Temporary or seasonal employees, whether part-time or full-time;
- (m) Contractors or consultants who may be doing business with the city;
- (n) Probationary employees;
- (o) Provisional employees;
- (p) Employees, other than those listed in this section, who are not employed in regular positions; including, but not limited to, employees working under contingent employment conditions.

Employees excluded from the competitive service serve at the will and pleasure of the appointing power and may be terminated at any time without any obligation whatsoever, on the part of the city, to prove cause or justification and without right of appeal or hearing, unless otherwise required by law. The terms of this section shall not be changed in any way whatsoever, except by an ordinance or duly adopted resolution of the city council.

2.22.040 - Personnel system development; city manager implementation authority.

The city manager is delegated the following powers, authority and/or duties:

- (a) To act as city personnel officer and to have the authority to delegate such duties inherent therein to a management employee as he or she shall deem appropriate, in whole or in part,

by issuance of appropriate administrative orders;

(b) To develop, approve, review, and revise comprehensive personnel rules, forms and procedures governing the details of all personnel administration and management encompassing all categories of appointed city employees;

(c) To develop, review, and revise a position classification plan encompassing all categories of appointed city employees; to recommend revisions to the classification plan which shall become effective upon approval of the table of organization by the city council;

(d) To develop, review, and revise a compensation plan encompassing all categories of appointed city employees and to administer such plan; to recommend revisions to the compensation plan which shall become effective upon approval of the table of compensation by the city council;

(e) To keep the city council informed of changes affecting major personnel policy, the city employee workforce or personnel impacts on the community.

Section 3. Current Personnel Rules to Remain in Place Until Amended

The City of Victorville Personnel Rules and Regulations, as adopted by the City Council and last amended on December 18, 2018, shall remain in force until otherwise modified by the City Manager.

Section 4. Repeal of Conflicting Provisions.

All the provisions of the Victorville Municipal Code heretofore adopted by the City of Victorville that are in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. Severability.

The City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 6. CEQA Exemption.

The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(5), that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is a governmental, organizational, or administrative activity that will not result in direct or indirect changes in the environment.

Section 7. Effective Date.

This Ordinance shall take effect thirty (30) days after its final passage.

Section 8. Certification.

The City Clerk of the City of Victorville is hereby directed to certify to the passage and adoption of this Ordinance and to cause it to be published as required by law.