



Item Number: {{item.number}}

City Council / Board of Directors

Public Hearing(s)

Meeting of: October 15, 2024

Submitted By:

Sophie Smith, Deputy City Manager

Subject:

Introduction of proposed Ordinance No. 2452, amending Chapters 2.04, 2.08, and 2.22 of the Victorville Municipal Code to further define the powers and duties of the City Manager, 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 update the City's Municipal Code provisions relating to the City's personnel merit system

Recommendation:

That Your Honorable City Council:

- (1) Open and conduct the public hearing and receive public testimony;
- (2) Close the public hearing;
- (3) Introduce Ordinance No. 2452 for adoption and first reading by title only; and
- (4) Waive further reading in full of proposed Ordinance No. 2452

Fiscal Impact:

There is no fiscal impact associated with this item.

Strategic Plan Goal:

This item aligns with Strategic Goal "G" – Organizational Effectiveness and Sustainability in that it demonstrates a commitment to local government best practices.

Background:

Dating back to the City's incorporation in 1962, the Manager/Council form of government was adopted (although the title was City Administrator at that time). This type of government embodies the concept of professional management, and among the common duties and responsibilities of a city manager is the authority over employees. The City's Charter adopted in 2008 further defined this form of government as one "under which the City Council sets policy and the City Manager administers the government." Within the Victorville Municipal Code (VMC), there are several sections that deal with personnel matters, such as the City Manager's role relative to employees, personnel administration,

and the employee Rules and Regulations. Many of those sections in the VMC date back to the 1970's.

Over the years, various resolutions have been adopted by the City Council to create a comprehensive set of Personnel Rules and Regulations (Rules and Regs). Currently, the Rules and Regs consist of twenty-one (21) chapters that cover various personnel topics such as the application process, probationary periods, leaves and attendance, separation from service, disciplinary action, etc. Although a few chapters have been updated in the last twenty years, many of the chapters date back to the 1980's or early 1990's.

Staff started working on a major revision to the Rules and Regs just prior to the pandemic. Work on the updated Rules and Regs resumed in 2023 and has been ongoing ever since. Staff utilizes specialized legal counsel (personnel attorneys), to deal with such matters. They have been involved in the process to ensure the significant changes in law are being reflected in the updated Rules and Regs. This project is expected to be completed by the end of the calendar year.

In conjunction with the Rules and Regs update project, the relevant chapters of the VMC have also been reviewed in their entirety. As a result, staff is recommending updates to the VMC in order to bring efficiency to the process of updating the Rules and Regs, as well as bring consistency.

Discussion:

Because Chapters 2.04, 2.08, and 2.22 of the VMC were reviewed in their entirety, there are several minor or grammatical revisions that are self-explanatory. However, below is a summary of the proposed changes within Ordinance No. 2452 that may require additional clarification:

Chapter 2.04

Section 2.04.040 Bond: The update in this section provides the City Council the option of approving an insurance policy, rather than a corporate surety bond, to ensure the faithful performance of the duties imposed upon the City Manager. This revision provides greater flexibility in the type of protection the City Council can accept for faithful performance. Similar bonding requirements exist for the City Clerk and City Treasurer. As a result, Sections 2.08.050 and 2.08.060 of the VMC are also being updated. The revision will bring this section up to date with current operating practice. The City has a Government Crime Policy with a "Faithful Performance of Duty Coverage for Government Employee" Endorsement with an insurance limit of \$5 million (deductible of \$2,500) to cover losses resulting directly from the failure of any employee to faithfully perform his or her duties as prescribed by law.

Section 2.04.050 Acting City Manager: The current language in the VMC refers to the Assistant City Manager serving as Acting City Manager in the temporary absence of the City Manager. The City's current Table of Organization does not include an Assistant City Manager. The proposed revision provides greater flexibility by allowing the City Manager

to designate a qualified city employee to serve as Acting City Manager in his/her absence. Typically, this would be a Deputy City Manager or Department Head.

Section 2.04.090 Authority Over Employees: The VMC indicates the City Manager has the authority to give directions to employees of the city through their department heads. The revision to this section removes the phrase “through their department heads” as there may be times when the Department Head is unavailable, and the City Manager gives directions to employees other than a Department Head.

Section 2.04.100 Power of Appointment and Removal: The VMC currently indicates the City Manager has appointment authority of appointive officers and employees, except the City Attorney. The VMC currently delegates the appointment authority of the City Clerk and City Treasurer to the City Manager pursuant to Government Code Section 34856, but indicates they are not subject to the City’s personnel ordinances, or the Rules and Regs. The proposed revision removes the phrase, “but they shall not be subject to the personnel ordinances, rules and regulations.” The removal of this phrase updates the VMC to make sure that employees in the City Clerk and City Treasurer role understand there are provisions of the Rules and Regs that, in fact, do apply to them.

Section 2.04.150 Budget: The language added to this section specifies the annual budget will include the Table of Classification and Table of Compensation for employees. This update is tied to the new language included in Section 2.22.040 which delegates the authority and duty to the City Manager to implement changes to the City’s Classification Plan and Compensation Plan via updates to the Table of Organization and Table of Compensation.

Section 2.04.280 Limitation on Removal: The existing language is somewhat unclear, therefore, has been clarified, and also has been revised to reflect the time periods the Council has previously approved in the current City Manager’s employment contract. The limitation on removal is intended to help to prevent the politicizing of the termination of a city manager by a city council in conjunction with an election cycle.

Chapter 2.08

As stated in the discussion regarding the revisions to Section 2.04.040, the bonding requirements for the City Clerk and the City Treasurer found in Section 2.08.050 and 2.08.060 are being updated to allow for an insurance policy in lieu of the surety bond currently required. The revisions will bring those sections up to date with current operating practice. The crime insurance policy endorsement previously described covers these positions as well.

Section 2.08.030 is also being updated, and Section 2.08.035 is being added, to reflect that certain financial and accounting duties previously transferred to the City Clerk are now being transferred to the City Treasurer. This more appropriately reflects the responsibility for financial reporting.

Section 2.08.070 Removal of Papers or Documents from City Offices: This section has been updated to grant the City Manager and City Clerk the authority to allow official records or documents to be removed from city offices. These are full-time positions that would more practically deal with that issue.

Chapter 2.22

Section 2.22.030 Exclusions–Competitive Service: This section has been updated to reflect the positions that are excluded from the competitive service. The employee positions listed are otherwise known as “at-will” positions. Positions equivalent to a Department Head and above are considered at-will positions. The update more accurately reflects the current Table of Organization. Additionally, the last paragraph of this section has been updated to provide clarity and provide a safeguard for any at-will employees that may have due process rights.

Section 2.22.040 Personnel System Development; City Manager Implementation Authority: This section of the VMC has been updated to grant the City Manager further implementation authority of the personnel system. Existing municipal code already delegates the powers and duties of the Personnel Officer to the City Manager. The proposed changes further define such delegation to include the development, revision, and approval of the Rules and Regs, and related procedures for city employees. The goal of a more streamlined process is to provide efficiency for regular updates to the Rules and Regs due to changes in law, implement best practices as they develop over time, and provide flexibility for changes to the evolving workforce.

Section 2.22.040 has also been updated to delegate to the City Manager the responsibility to develop and revise the classification and compensation plans for employees and to recommend to the City Council for its approval any changes to such plans via revisions to the Tables of Organization and Compensation.

Finally, this section has been updated to require the City Manager to keep the City Council informed of changes affecting major personnel policy, the City workforce, or personnel impacts on the community.

Deletion of Subsequent Personnel Sections

Section 2.22.050 Personnel Rules

Section 2.22.060 Appointment to Competitive Service - Generally

Section 2.22.070 Probationary Period

Section 2.22.075 Probationary Period Exception; Lateral Appointments (Hires) of
Firefighter Paramedics

Section 2.22.080 Disciplinary Action - Generally

Section 2.22.090 Appeals

Section 2.22.100 Abolition of Positions in Competitive Service

Section 2.22.110 Improper Political Activities or Political Activities of the City Employees

Section 2.22.120 Discriminatory Practices Prohibited

These sections have been deleted from the VMC as the specific topics are covered in the existing personnel Rules and Regs, or will be covered in the updated Rules and Regs as they are personnel-related in nature.

Section 2.22.130 Authority to Contract for Personnel Services: This section is being deleted as the City Manager and City Council are already granted such contracting authority in VMC Chapter 2.28 which contains the City's Purchasing System.

Conclusion

The revisions contained in proposed Ordinance No. 2452 are consistent with the City Manager's powers, duties, and authority that already exists within VMC sections 2.04.070 and 2.04.090. These updates are also consistent with the Employment Agreement of the City Manager which indicates he shall have authority over employees and power of appointment and removal of employees. As the administrative head of the city, the City Manager is responsible for the employees. Accordingly, the responsibility to update, revise, and enforce the Rules and Regs is in line with such authority over employees. The VMC updates within Ordinance No. 2452 remove conflict between the existing municipal code and the contracted responsibilities of the City Manager.

Staff remains available for any questions or comments.

Attachments: A. Ordinance No. 2452
 B. Blackline Comparison