



STAFF REPORT

Date: July 15, 2014
To: Mayor and Members of City Council
From: William R. Galstan, Special Counsel *William R. Galstan*
Cc: Bryan Montgomery, City Manager
Subject: Ordinance to Add Chapter 11 to Title 2 of the Oakley Municipal Code, Dealing with the City's Personnel System

FOR CONSIDERATION AT THE CITY COUNCIL MEETING ON AUGUST 12, 2014

Summary and Recommendation

Repeal Ordinance No. 17-00 and adopt the proposed ordinance adding Chapter 11 to Title 2 of the Oakley Municipal Code, dealing with the City's Personnel System.

Fiscal Impact

None.

Background Information

On November 27, 2000, the Oakley City Council adopted Ordinance No. 17-00 to establish the City's Personnel System. A copy of the staff report and adopted ordinance are attached. The purpose of the personnel system was to establish an equitable and uniform system for dealing with personnel matters, to provide for a competitive service based on merit for non-management, full-time employees, and to comply with applicable laws relating to the administration of personnel. While adopted, the ordinance was never incorporated into a numerated section in the Oakley Municipal Code. The proposed ordinance will repeal Ordinance No. 17-00 and replace it with a numerated section in the Oakley Municipal Code. No substantial changes have been made to the existing ordinance.

Conclusion

Staff recommends that the City Council adopt the proposed ordinance.

Attachments

1. Staff report dated November 7, 2000 and Ordinance No. 17-00 adopted November 27, 2000.
2. Proposed Ordinance



Agenda Date 11/7/2000
 Agenda Item 5.3

MEMORANDUM

Date: November 7, 2000

To: Mike Oliver, City Manager

Via: Elizabeth H. Silver, City Attorney

From: Katharine G. Wellman, Associate Attorney

Subject: Adding Title 2, Chapter 3 To The Oakley Municipal Code Establishing The City's Personnel System

Approved and Forwarded to
 City Council

Mike Oliver

Mike Oliver, City Manager

Summary and Recommendation

Attached is an ordinance establishing a Personnel System for the City and granting the City Manager authority to administer and implement the Personnel System. It is recommended that the City Council waive the first reading and introduce the ordinance.

Fiscal Impact

There is no fiscal impact anticipated from the adoption of the ordinance.

Background and Analysis

Under California law, the City Council is required to adopt a personnel ordinance outlining the type of personnel system that will govern City employees. The proposed ordinance establishes a competitive merit system for approved and budgeted, non-management positions and addresses other issues relating to the administration of the City's personnel. It provides the City Manager with authority to administer the Personnel System and to be the appointing authority for all positions in the City except for the City Attorney.

The ordinance also provides for the adoption of Personnel Standards that will be used to administer the personnel system. These Standards will include the recruitment and selection process for new employees, a classification and compensation plan for all approved and budgeted positions in the competitive service, a system for evaluating job performance, lay off procedures and a process for implementing discipline and addressing any grievances. The City Manager intends to develop the Standards through collaborative

discussions with the City's current employees. The Personnel Standards and any subsequent revisions shall be subject to review and approval by the City Council.

Not included in this Personnel ordinance is the process by which employee-employer relations shall be conducted under the Meyers-Milias-Brown Act. However, since the number of employees in the City is very small, the need for such a process is not imminent and can be added at a more appropriate time.

Probationary Period

During the last study session, the Council requested that staff gather information on the probationary periods of merit employees in the surrounding cities. The information requested is as follows:

Antioch	- 1 year for regular employees, 18 months for police officers
Pittsburg	- 1 year for regular employees, 18 months for police officers
Brentwood	- 1 year for regular employees, 18 months for police officers
Concord	- 6 months for regular employees, 18 months for police officers
Contra Costa County	- 6 to 9 months for regular employees, depending upon position -18 to 24 months for police, depending upon position

Since the majority of the surrounding cities have a probationary period of one year for regular employees and eighteen months for police officers, staff has assumed that the Council will want a similar probationary period for its employees and has modified the Personnel Ordinance accordingly. This provision may need to be modified further if this is not the intent of the Council.

Thus, the ordinance currently provides that only full-time, non-management employees who have passed a one-year probationary period (or an eighteen month probationary period if in a law enforcement position) are part of the competitive merit system. Furthermore, the City can extend the probationary period up to six months longer if additional review of the employee is needed. All other positions, which are outlined in Section 3, are not included in the competitive service and serve at the pleasure of the City Manager.

Conclusion

It is recommended that the City Council waive the first reading and introduce the ordinance.

Attachments

Ordinance

**CITY OF OAKLEY
ORDINANCE NO. 17-00**

**ADDING TITLE 2 CHAPTER 3 TO THE OAKLEY MUNICIPAL CODE
ESTABLISHING THE CITY'S PERSONNEL SYSTEM**

The City Council of the City of Oakley does ordain as follows:

SECTION 1: ADOPTION. This ordinance hereby adds Title 2, Chapter 3 entitled "Personnel System" to the City of Oakley Municipal Code which shall include the following provisions:

SECTION 2: Purpose.

The purpose of this personnel system is to establish an equitable and uniform system for dealing with personnel matters, to provide for a competitive service based on merit for non-management, full-time employees, and to comply with applicable laws relating to the administration of personnel.

SECTION 3: Applicability.

The provisions of this chapter pertaining to the competitive service shall apply to all officers, positions and employments in the service of the city, except:

- A. Elected officers;
- B. The City Manager;
- C. The City Attorney and other City Attorney staff;
- D. Members of appointed boards, commissions and committees;
- E. Department heads and other management positions designated by the City Manager, including but not limited to, the City Clerk, the Management Analyst, the Administrative Services Director, the Redevelopment Manager, and the Administrative Coordinator;
- F. Persons engaged under contract to supply expert, professional, technical or any other services for the City;
- G. Volunteer personnel;
- H. All Council-appointed City officers;
- I. Emergency employees who are hired to meet the immediate requirements of an emergency condition;
- J. Any position primarily funded under a state or federal employment program;
- K. Any position primarily funded from an outside grant program or from any other funding outside the City budget;

- L. Any other employee who is not regularly employed in a permanent position. "Regularly employed in a permanent position" means an employee who is hired for an indefinite term into an approved, budgeted position within the competitive service, who is regularly scheduled to work full time hours and has successfully completed the probationary period.

Employees not included in the competitive service under this section shall serve at the pleasure of the appointing authority and may be terminated at will, with or without cause or notice, and without any right of appeal, hearing or grievance procedure.

SECTION 4: Personnel Standards.

Standards implementing the personnel system shall be adopted by resolution of the City Council. They shall include, but not be limited to:

- A. Definitions used to administer the personnel system;
- B. Preparation, adoption, revision, and maintenance of a position classification plan covering all approved and budgeted positions in the competitive service, including employment standards, qualifications, and essential functions for each class;
- C. Preparation, adoption, and revision of a compensation plan for all approved and budgeted positions in the competitive service;
- D. Appropriate announcement, testing and selection process for the certification and appointment of individuals for employment;
- E. Establishment of appropriate probationary testing periods;
- F. Evaluation of employees during probationary period and thereafter;
- G. Transfer, promotion, demotion, reinstatement, disciplinary action and layoff of employees in the competitive service;
- H. Separation of employees from City service;
- I. The establishment and maintenance of personnel records;
- J. The establishment of any necessary appeal procedures.

SECTION 5: Administration of Personnel System/Authority of City Manager.

The City Manager shall administer the City's Personnel System and shall have the authority to:

- A. Act as the appointing authority for the City as to all employees except the City Attorney.
- B. Prepare and recommend to the City Council Personnel Standards and revisions and amendments to such Standards.
- C. Administer all the provisions of this chapter and of the Personnel Standards not specifically reserved to the City Council.
- D. Direct the preparation of a classification plan, including class specifications and revisions to the plan subject to approval by the City Council.

- E. Direct the preparation of a compensation plan, including steps for pay increases within classifications for all approved, budgeted positions, subject to approval by the City Council.
- F. Provide increases in compensation for employees as set forth in the compensation plan that are budgeted and approved by the City Council.
- G. Have the authority to discipline employees in accordance with this chapter and the Personnel Standards.
- H. To delegate any of the powers and duties of this Chapter to a staff member or any other officer or employee of the city or to recommend that such powers and duties be performed under contract.

SECTION 6: Appointments.

The City Manager has the authority to appoint employees to fill all positions in the City except for those positions appointed by the City Council. The City Manager may delegate the appointing authority to any other officer or employee of the City. Appointments to vacant positions in the competitive service shall be:

- A. Made in accordance with the Personnel Standards.
- B. Based on merit and fitness as determined to the extent possible by competitive examination.
 - 1) Physical, medical and psychological tests may be given as part of any examination after a conditional offer of employment has been extended to an applicant.
 - 2) The probationary period shall be considered an extension of the examination process.

SECTION 7: Probationary Period.

All regular appointments in the competitive service, including promotional appointments, shall be for a probationary period of one (1) year. In the event the City decides not to contract out for law enforcement services, any appointments for a law enforcement position included in the competitive service shall be for a probationary period of eighteen (18) months. The probationary period shall commence from the date of appointment. The appointing authority may extend such probationary period up to six (6) additional months by notifying the employee in writing prior to the expiration of the probationary period. Absence from work due to illness, injury or any other reason shall extend the length of the probationary period by the amount of time the probationary employee is absent from work. During the probationary period, the employee may be rejected from employment at any time, with or without cause or notice and without any right of appeal, hearing, or grievance procedure.

A regular employee in the competitive service who is rejected during the probationary period from a position to which he has been promoted, shall be reinstated to a position in the class from which he was promoted unless the employee is discharged from City service as provided in the Personnel Standards.

SECTION 8: Status of Current Employees.

Any employee holding a position included in the competitive service on the effective date of this ordinance shall be expected to serve a one (1) year probationary period (or in the event it is created, an eighteen (18) month probationary period for a law enforcement position included in the competitive service) computed from the date of appointment or employment of that employee. If the employee has served continuously in such position for the City for more than the applicable probationary period set forth above, the employee shall assume regular status in the competitive service and shall be subject to all the provisions in this chapter and the Personnel Standards. If the employee has served continuously for less than the applicable probationary period, the employee shall be regarded as probationary and must serve out the balance of the probationary period as prescribed in this chapter.

SECTION 9: Disciplinary Action.

The City Manager shall have the authority to reprimand, demote, suspend, reduce in pay, or discharge any regular employee in the competitive service for cause provided in the Personnel Standards.

SECTION 10: Lay off and Re-Employment.

Lay-off and re-employment actions shall follow the process provided in the Personnel Standards.

SECTION 11: Political Activity.

The political activities of city employees shall conform to pertinent provisions of state law and any local provision adopted pursuant to state law.

SECTION 12: INCLUSION IN MUNICIPAL CODE. It is the Council's intent that Sections 2 through 10 outlined above be included in Title 2, Chapter 3 of the Oakley Municipal Code when this ordinance is codified.

SECTION 13: SEVERABILITY. If any sections, subsections, sentences, clauses, phrases or portions of this ordinance are for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause of this ordinance whether or not any one or more sections, subsections, phrases or clauses may be declared invalid or unconstitutional on their face or as applied.

SECTION 14: EFFECTIVE DATE AND POSTING. Effective Date and Posting. In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk of the City of Oakley shall cause this Ordinance to be posted

in at least three (3) public places in the City of Oakley in accordance with Section 36933 of the Government Code of the State of California.

ADOPTED, THIS 27th day of November, 2000 by the following vote:

AYES: Anderson, Huffaker, Nix, Rios, Vanek

NOES: None

ABSTENTIONS: None

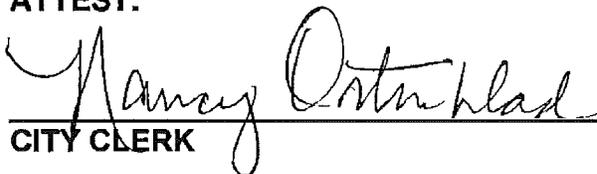
ABSENT: None

APPROVED:



MAYOR

ATTEST:



CITY CLERK

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY
ADDING CHAPTER 11 TO TITLE 2 OF THE OAKLEY MUNICIPAL CODE,
DEALING WITH THE PERSONNEL SYSTEM**

The City Council of the City of Oakley does ordain as follows:

Section 1. Ordinance No. 17-00 is hereby repealed.

Section 2. Chapter 11 is hereby added to Title 2 of the Oakley Municipal Code, to read as follows:

2.11.002 Purpose.

The purpose of this personnel system is to establish an equitable and uniform system for dealing with personnel matters, to provide for a competitive service based on merit for non-management, full-time employees, and to comply with applicable laws relating to the administration of personnel.

2.11.004 Applicability.

The provisions of this chapter pertaining to the competitive service shall apply to all officers, positions and employments in the service of the City, except:

- A. Elected officers;
- B. The City Manager;
- C. The City Attorney and other City Attorney staff;
- D. Members of appointed boards, commissions and committees;
- E. Department heads and other management positions designated by the City Manager;
- F. Persons engaged under contract to supply expert, professional, technical or any other services for the City;
- G. Volunteer personnel;
- H. All Council-appointed City officers;
- I. Emergency employees who are hired to meet the immediate requirements of an emergency condition;
- J. Any position primarily funded under a state or federal employment program;
- K. Any position primarily funded from an outside grant program or from any other funding outside the City budget;
- L. Any other employee who is not regularly employed in a permanent position.
“Regularly employed in a permanent position” means an employee who is hired for an indefinite term into an approved, budgeted position within the competitive service, who is regularly scheduled to work full-time hours and has successfully completed the probationary period.

Employees not included in the competitive service under this section shall serve at the pleasure of the appointing authority and may be terminated at will, with or without cause or notice, and without any right of appeal, hearing or grievance procedure.

2.11.006 Personnel Standards.

Standards implementing the personnel system shall be adopted by resolution of the City Council. They shall include, but not be limited to:

- A. Definitions used to administer the personnel system;
- B. Preparation, adoption, revision, and maintenance of a position classification plan covering all approved and budgeted positions in the competitive service, including employment standards, qualifications, and essential functions for each class;
- C. Preparation, adoption, and revision of a compensation plan for all approved and budgeted positions in the competitive service;
- D. Appropriate announcement, testing and selection process for the certification and appointment of individuals for employment;
- E. Establishment of appropriate probationary testing periods;
- F. Evaluation of employees during probationary period and thereafter;
- G. Transfer, promotion, demotion, reinstatement, disciplinary action and layoff of employees in the competitive service;
- H. Separation of employees from City service;
- I. The establishment and maintenance of personnel records;
- J. The establishment of any necessary appeal procedures.

2.11.008 Administration of Personnel System/Authority of City Manager.

The City Manager shall administer the City's Personnel System and shall have the authority to:

- A. Act as the appointing authority for the City as to all employees except the City Attorney.
- B. Prepare and recommend to the City Council Personnel Standards and revisions and amendments to such Standards.
- C. Administer all the provisions of this chapter and of the Personnel Standards not specifically reserved to the City Council.
- D. Direct the preparation of a classification plan, including class specifications and revisions to the plan subject to approval by the City Council.
- E. Direct the preparation of a compensation plan, including steps for pay increases within classifications for all approved, budgeted positions, subject to approval by the City Council.
- F. Provide increases in compensation for employees as set forth in the compensation plan that are budgeted and approved by the City Council.
- G. Have the authority to discipline employees in accordance with this chapter and the Personnel Standards.

- H. To delegate any of the powers and duties of this Chapter to a staff member or any other officer or employee of the City or to recommend that such powers and duties be performed under contract.

2.11.010 Appointments.

The City Manager has the authority to appoint employees to fill all positions in the City except for those positions appointed by the City Council. The City Manager may delegate the appointing authority to any other officer or employee of the City. Appointments to vacant positions in the competitive service shall be:

- A. Made in accordance with the Personnel Standards.
- B. Based on merit and fitness as determined to the extent possible by competitive examination.
 - 1) Physical, medical and psychological tests may be given as part of any examination after a conditional offer of employment has been extended to an applicant.
 - 2) The probationary period shall be considered an extension of the examination process.

2.11.012 Probationary Period.

All regular appointments in the competitive service, including promotional appointments, shall be for a probationary period of one (1) year. In the event the City decides not to contract out for law enforcement services, any appointments for a law enforcement position included in the competitive service shall be for a probationary period of eighteen (18) months. The probationary period shall commence from the date of appointment. The appointing authority may extend such probationary period up to six (6) additional months by notifying the employee in writing prior to the expiration of the probationary period. Absence from work due to illness, injury or any other reason shall extend the length of the probationary period by the amount of time the probationary employee is absent from work. During the probationary period, the employee may be rejected from employment at any time, with or without cause or notice and without any right of appeal, hearing, or grievance procedure.

A regular employee in the competitive service who is rejected during the probationary period from a position to which the employee has been promoted, shall be reinstated to a position in the class from which the employee was promoted unless the employee is discharged from City service as provided in the Personnel Standards.

2.11.014 Status of Current Employees.

Any employee holding a position included in the competitive service on the effective date of this ordinance shall be expected to serve a one (1) year probationary period (or in the event it is created, an eighteen (18) month probationary period for a law enforcement position included in the competitive service) computed from the date of appointment or employment of that employee. If the employee has served continuously in such position for the City for more than the applicable probationary period set forth above, the

employee shall assume regular status in the competitive service and shall be subject to all provisions in this chapter and the Personnel Standards. If the employee has served continuously for less than the applicable probationary period, the employee shall be regarded as probationary and must serve out the balance of the probationary period as prescribed in this chapter.

2.11.016 Disciplinary Action.

The City Manager shall have the authority to reprimand, demote, suspend, reduce in pay, or discharge any regular employee in the competitive service for cause provided in the Personnel Standards.

2.11.018 Lay-off and Re-Employment.

Lay-off and re-employment actions shall follow the process provided in the Personnel Standards.

2.11.020 Political Activity.

The political activities of City employees shall conform to pertinent provisions of state law and any local provision adopted pursuant to state law.

Section 2. California Environmental Quality Act (CEQA) Finding.

This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), Review for Exemption, because it can be seen with certainty that the project will not have a significant effect on the environment; therefore the project is not subject to CEQA.

Section 3. Severability.

In the event any section or portion of this ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 4. Effective Date and Publication.

This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the City Clerk's Office at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on _____, 2014 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Randy Pope, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date