

**CONSENT CALENDAR****Agenda Item # 9****AGENDA REPORT SUMMARY**

**Meeting Date:** June 22, 2021

**Subject:** At-Will Employee Urgency Ordinance

**Prepared by:** Jolie Houston, City Attorney

**Reviewed by:** Jon Maginot, Deputy City Manager

**Approved by:** Brad Kilger, Interim City Manager

**Attachment(s):**

1. Urgency Ordinance No. 2021-476

**Initiated by:**

City Attorney and Staff

**Previous Council Consideration:**

None

**Fiscal Impact:**

None

**Environmental Review:**

Not applicable.

**Policy Question(s) for Council Consideration:**

Does the Council wish to adopt an ordinance that will clarify the City Manager's power to establish at-will employment at the City??

**Summary:**

- From time to time, the City hires at-will employees. The term "at-will" means employees that may be released without cause, have no right to appeal dismissal or any other disciplinary action, and otherwise do not have a property interest in continued employment.
- This ordinance clarifies the category of at-will employment at the City and the City Manager's right to establish at-will employment.
- This ordinance will be followed by a comprehensive revise of the City's 2012 personnel rules and the City's 1962 personnel ordinance.

**Staff Recommendation:**

Approve.

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**Reviewed By:**

City Manager

City Attorney

Finance Director

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**Subject:** At-Will Employee Urgency Ordinance

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### **Purpose**

This ordinance will clarify the City Manager's power to establish at-will employment at the City and supports the category of at-will employment at the City.

### **Background**

Currently, the City's municipal code does not address the City Manager's power to appoint at-will employees, even though, from time-to-time the City hires at-will employees. The term "at-will" means employees that may be released without cause, have no right to appeal dismissal or any other disciplinary action, and otherwise do not have a property interest in continued employment.

### **Discussion/Analysis**

This ordinance clarifies the category of at-will employment at the City and the City Manager's right to establish at-will employment. This ordinance will be followed by a comprehensive revise of the City's 2012 personnel rules and 1962 personnel ordinance, which will come before the Council later in the year.

### **Options**

1) Approve

**Advantages:** The City's municipal code will address the existence of at-will employment at the City.

**Disadvantages:** None.

2) Reject

**Advantages:** None.

**Disadvantages:** The City's municipal code will be silent as to the existence of at-will employment at the City.

### **Recommendation**

The staff recommends Option 1. As an Urgency Ordinance it will require 4/5 vote of the entire Council.

**ORDINANCE NO. 2021- 476**

**AN URGENCY ORDINANCE OF THE CITY OF LOS ALTOS  
AMENDING CHAPTER 2, SECTION 2.01.060 ENTITLED “CITY  
MANAGER.” OF THE LOS ALTOS MUNICIPAL CODE (“LAMC”) BY  
REPEALING SECTION 2.01.060 IN ITS ENTIRETY AND REPLACING  
IT WITH A NEW SECTION 2.010.060**

WHEREAS, the City Council finds that it is the intent of this Ordinance to be interpreted in a manner compatible with the California Constitution, the laws of the State of California, the Los Altos Municipal Code and the Los Altos Personnel Ordinances, Rules and Regulations; and

WHEREAS, the City complied with all local and state laws concerning the public notice of its intent to adopt this Ordinance; and

WHEREAS, the Ordinance amendments set forth below have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act of 1970, as amended (“CEQA”), and the guidelines promulgated thereunder and, further, said Council finds that it can be seen with certainty that there is no possibility that said amendments may have a significant effect on the environment and said amendments are therefore exempt from the requirements of the CEQA pursuant to the provisions of Section 15061(b)(3) of Division 6 of Title 14 of the California Code of Regulations.

The City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** Chapter 2, Section 2.01 of the Los Altos Municipal Code (“LAMC”) entitled “City Manager” is hereby amended by repealing Section 2.01.060 in its entirety and replacing it with a new section 2.010.060 to read as follows:

**“2.01.060 - Powers and duties.**

The city manager shall be the administrative head of the government of the city under the direction and control of the council except as otherwise provided in this chapter. The city manager shall be responsible for the efficient administration of all affairs of the city which are under his or her control. In addition to his or her general powers as administrative head, and not as a limitation thereon, and except as otherwise provided for in a written agreement for services with the city, he or she shall be expected to, and shall have the power to:

- A. Enforce all laws and ordinances of the city and to see that all franchises, contracts, permits and privileges granted by the council are faithfully observed;
- B. Appoint, remove, promote, demote, evaluate and manage any and all officers and employees of the city, except elective officers and the city attorney, subject to all applicable personnel rules and regulations which the city manager amends, revises and administers and, on behalf of the city, prepare and enter into separation agreements with officers and employees;

C. Serve as the personnel officer as defined in the Personnel System Ordinance and resolutions;

D. Control, order and give direction to all department heads who are subject to his or her appointment and removal authority, and to employees of the city under his or her jurisdiction through their department heads;

E. Establish at-will positions that serve at the pleasure of the City Manager. Incumbents in such positions have no probationary period, may be dismissed without cause, and have no right to appeal their dismissal or any other disciplinary action. This section expressly supersedes and replaces any conflicting terms or provisions in the City's Personnel Ordinance No. 260;

F. Conduct studies and effect such organization and 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;

G. Recommend to the council for adoption such measures and ordinances as he or she deems necessary;

H. Attend all regular meetings of the council unless excused therefrom by the mayor or the council;

I. Prepare and submit a proposed annual, biennial or longer term budget and a proposed annual salary plan to the council for its approval;

J. Direct and supervise all the purchasing activities of the city;

K. Keep the council at all times fully advised as to the financial condition and needs of the city;

L. Make investigations into the affairs of the city and any department or division thereof and any contract or the proper performance of any of the obligations of the city; and further, 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;

M. Exercise general supervision over all public buildings, public parks and all other public properties which are under the control and jurisdiction of the council;

N. Have the same authority as the mayor, as conveniences to the parties may dictate, to sign documents specified in Section 40602 of the Government Code of the state whenever such documents have been approved by the council for execution by resolution, motion, minute order or other appropriate action; and

O. Perform such other responsibilities 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 council.”

**SECTION 2. CONSTITUTIONALITY / SEVERANCE.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Los Alto hereby declares that it would have passed and adopted this

Ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 3. PUBLICATION.** This Ordinance shall be published as provided in Government Code section 36933.

**SECTION 4. EFFECTIVE DATE:** This Ordinance, pursuant to Government Code section 36937, is hereby declared to be necessary as an urgency measure for the preservation of the public peace, health, safety and property in the City, and as such shall take effect immediately and be in full force and effect after its adoption after publication at least once in an official newspaper of the City for the following reasons:

The City Council finds that this Ordinance must be adopted as an urgency ordinance and is necessary (1) to correct any conflicts between existing City Personnel Ordinance, Rules and Regulations and this Ordinance and (2) to avoid confusion and to assure the City employees and public what rules, regulations and procedures will apply to certain “at will” employees.

In order to accomplish these goals, Los Altos Municipal Code Chapter 2.01, as amended, must adopted by means of this Urgency Ordinance.

PASSED FOR THE PURPOSE OF PUBLICATION this 22nd day of June 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Neysa Fligor, MAYOR

Attest:

\_\_\_\_\_  
Andrea Chelemengos, CITY CLERK

Date: \_\_\_\_\_