

**ORDINANCE NO. 2011-366**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS  
AMENDING THE LOS ALTOS MUNICIPAL CODE BY REPEALING SECTION  
2.04.060 AND RESOLUTION NO. 07-37 IN THEIR ENTIRETY, AND BY ADDING  
NEW CHAPTERS 2.01, 2.02 AND 2.03, WHICH ESTABLISH THE POWERS AND  
DUTIES OF THE OFFICES OF CITY MANAGER, CITY CLERK AND  
CITY ATTORNEY**

**WHEREAS**, the California Constitution, article XI section 7, confers on the City of Los Altos (“City”) the power to make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws; and

**WHEREAS**, the City Council finds and determines that the adoption of reasonable standards, restrictions and requirements concerning the positions of the City Manager, City Clerk and City Attorney are necessary to provide the City Manager, City Clerk and City Attorney with reasonable expectations of their respective positions; and

**WHEREAS**, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

**NOW, THEREFORE**, The City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1.** Chapter 2 of the Los Altos Municipal Code entitled “ADMINISTRATION AND PERSONNEL” is amended to repeal Section 2.04.060 in its entirety. Resolution No. 07-37 is repealed in its entirety. If there are any conflicts with this Ordinance and any other provisions of the Los Altos Municipal Code, City personnel regulations and/or policies, this Ordinance shall control.

**SECTION 2.** Chapter 2 of the Los Altos Municipal Code entitled “ADMINISTRATION AND PERSONNEL” is amended to add a new Chapter 2.01 entitled “City Manager” to read as follows:

**“Chapter 2.01 City Manager**

**2.01.010 Office created—Term.**

The office of the City Manager is created and established. The City Manager shall be appointed by the Council wholly on the basis of administrative and executive ability and qualifications. The City Manager shall hold office at the pleasure of the Council.

**2.01.020 Eligibility.**

No member of the Council shall be eligible for appointment as City Manager until one year has elapsed after such Councilmember has ceased to be a member of the Council.

**2.01.030 Compensation.**

The City Manager shall receive such compensation and expense allowances as the Council shall from time to time determine and as provided for in his or her written agreement for services with the City.

**2.01.040 Expense reimbursement.**

The City Manager shall be reimbursed for all actual and necessary expenses incurred by him or her in the performance of his or her official duties.

**2.01.050 Designation of acting City Manager.**

The City Manager may designate a qualified City administrative officer to exercise the powers and perform the duties of manager during his or her temporary absence or disability. The Council shall appoint an acting or interim City Manager when the office becomes vacant.

**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. 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;
- F. Recommend to the Council for adoption such measures and ordinances as he or she deems necessary;

G. Attend all regular meetings of the Council unless excused therefrom by the mayor or the Council;

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

I. Direct and supervise all the purchasing activities of the City;

J. Keep the Council at all times fully advised as to the financial condition and needs of the City;

K. 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;

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

M. 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

N. 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.

#### **2.01.070 Relations with Council.**

A. The Council and its members shall deal with the administrative services and staff functions of the City only through the City Manager, except for the purpose of inquiry, and neither the Council nor any member thereof shall give direction or instruction to any subordinates of the City Manager. For purposes hereof, "inquiry" means any and all communications short of giving orders, directions or instructions to any member of the administrative staff. Such members shall give all information reasonably requested by any Councilmember.

B. The City Manager shall take his or her orders and instructions from the Council only when sitting in a duly convened meeting of the Council and no individual Councilmember shall give any direction or instruction to the City Manager. The Council shall instruct the City Manager in matters of policy. Any action, determination or omission of the City Manager shall be subject to review by the Council. The Council may not overrule, change or modify any such action, determination or omission except by the affirmative vote of at least three members of the Council.

#### **2.01.080 Departmental cooperation.**

It shall be the duty of all employees and the City Attorney to assist the City Manager in administering the affairs of the City efficiently, economically and harmoniously.

**2.01.090 Attendance at commission meetings.**

The City Manager may attend any and all meetings of the Planning Commission, and any other commission, board or committee created by the Council, upon his or her own volition or upon direction of the Council. At such meetings which the City Manager attends, he or she shall be heard by such commissions, boards or committees as to all matters upon which he or she wishes to address the members thereof.

**2.01.100 Removal—Method—Notice.**

The removal of the City Manager shall be effected pursuant to the conditions of his or her Agreement for Services with the City.

**2.01.110 Agreements with Council.**

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

**SECTION 3.** Chapter 2 of the Los Altos Municipal Code entitled “ADMINISTRATION AND PERSONNEL” is amended to add a new Chapter 2.02 entitled “City Clerk” to read as follows:

**“Chapter 2.02 City Clerk**

**2.02.010 Office created—Term.**

The office of City Clerk is created and established. The City Clerk shall be appointed by the City Manager.

**2.02.020 Compensation.**

The City Clerk shall receive such compensation and expense allowance as the City Manager shall from time to time determine.

**2.02.030 Functions.**

A. The City Clerk shall have all of the powers, duties and responsibilities granted to and imposed upon the office of the City Clerk by the applicable provisions of the Government Code, other general laws of the State, the provisions of this code, and the ordinances and resolutions of the Council.

B. The principal functions of the City Clerk shall be to:

1. Attend all regular meetings of the Council except when excused by the City Manager, and be responsible for the timely recording and maintaining of a record of all the actions of the Council;

2. Keep all ordinances and resolutions of the Council in such a manner that the information contained therein will be readily accessible and open to the public. The City Clerk shall attest to each resolution and ordinance adopted by the Council and, as to ordinances requiring publication, that the ordinance has been published or posted in accordance with law;

3. Prepare requirements, schedule and maintain all records of the Council and of the office of the City Clerk, and prepare the records retention schedule for City Departments in such manner that the information contained therein, will be readily accessible and open to the public pursuant to the California Public Records Act, Government Code Section 6250 *et seq.*, until such time as any of the records may be destroyed or reproduced and the original destroyed, in accordance with State law;

4. Serve as the official custodian of all City records;

5. Receive, organize, prepare and reply to requests regulated by the California Public Records Act;

6. Serve as custodian of the seal of the City;

7. Prepare the Council agendas, in conjunction with and under the direction of the City Manager;

8. Perform the duties prescribed by the Elections Code in conducting municipal elections;

9. Perform the duties imposed upon City Clerks by the California Political Reform Act;

10. Be responsible for the maintenance and distribution of the City's Municipal Code;

11. Receive and forward to appropriate departments all claims filed against the City and its officers, agents or employees, pursuant to the provisions of the Torts Claims Act, Government Code Section 900 *et seq.*, and Chapter 1.40 of this code;

12. Administer all official oaths of office;

13. Certify all official records of the City;

14. Display decorum and conduct befitting a holder of a public office; work cooperatively and positively with employees, managers, commissioners and members of the public; maintain exceptional customer service at all times; and

15. Perform such other duties as assigned.”

**SECTION 4.** Chapter 2 of the Los Altos Municipal Code entitled “ADMINISTRATION AND PERSONNEL” is amended to add a new Chapter 2.03 entitled “City Attorney” to read as follows:

## **“Chapter 2.03 City Attorney**

### **2.03.010 Office created—Term.**

- A. The office of the City Attorney is established. It shall consist of the City Attorney.
- B. The City Attorney shall administer the office and be responsible for the successful performance of its functions. He or she shall serve under the direct supervision and control of the Council as its legal advisor.
- C. The Council may enter into a contract with a private law firm to perform the services of City Attorney and, in that connection, may designate a City Attorney and such assistant City Attorneys as are deemed necessary, and references in this chapter to City Attorney or the office of City Attorney will include any applicable law firm and performance of the functions by any of its members or employed attorneys.
- D. The City Attorney may retain or employ other attorneys, assistants or special counsel as may be needed to take charge of any litigation or legal matters or assist the City Attorney therein provided.

### **2.03.020 Compensation.**

The City Attorney shall receive such compensation and expense allowance as the City Council shall from time to time determine pursuant to his or her written agreement for services with the City.

### **2.03.030 Functions.**

Except as otherwise provided for in an agreement for services with the City, the functions of the office of the City Attorney shall be to:

- A. Advise the Council and all City officers in all matters of laws pertaining to their offices;
- B. Furnish legal service at all regular meetings of the Council, except when excused by the mayor or the Council, and give advice or opinions on the legality of all matters under consideration by the Council or by any of the boards and commissions or officers of the City;
- C. Prepare and/or approve all ordinances, resolutions, agreements, contracts, and other legal instruments as shall be required for the proper conduct of the business of the City and approve the form of all contracts and agreements given to the City;
- D. Prosecute on behalf of the people cases for violation of City ordinances when not otherwise prosecuted by the district attorney of Santa Clara County; and
- E. Perform such other legal duties as may be required by the Council or as may be necessary to complete the performance of the foregoing functions.

**2.03.040 Agreements with Council.**

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

**SECTION 5. 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 Altos 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 6. PUBLICATION.** This Ordinance shall be published as provided in Government Code section 36933.

**SECTION 7. EFFECTIVE DATE.** This Ordinance shall be effective upon the commencement of the thirty-first day following the date the adopted Ordinance is attested by the City Clerk.

The foregoing ordinance was duly and regularly introduced at a meeting of the City Council of the City of Los Altos on March 8, 2011 and was thereafter, at a regular meeting held on March 22, 2011 passed and adopted by the following vote:

- AYES: PACKARD, CARPENTER, CASAS, FISHPAW, SATTERLEE
- NOES: NONE
- ABSTAIN: NONE
- ABSENT: NONE

  
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 Ronald D. Packard, MAYOR

Attest:

  
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 Jon Maginot, DEPUTY CITY CLERK

Date: MARCH 22, 2011