

ORDINANCE NO. 2024-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OLMOS PARK, TX AMENDING THE CITY'S CODE OF ORDINANCES CHAPTER 2 AMENDING SECTION 2.8 CITY EMPLOYEES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Olmos Park, Texas is a General Law Type A municipality located in Bexar County, Texas and duly established under the Texas Constitution and the laws of this State; and

WHEREAS, the City Council of the City of Olmos Park ("City Council") previously established Chapter 2 of the City's Code of Ordinances regulating matters related to city employees; and

WHEREAS, the staff has identified potential problems and conflicts between provisions that are codified and that should be a part of the City's Personnel Policy regarding disciplinary actions; and

WHEREAS, it is recommended that provisions be removed from the City Code and evaluated as amendments to the Personnel Policy of the City; and

WHEREAS, the City Council finds that it is in the best interest of the City of Olmos Park to adopt amendments to Chapter 2 of the City's Code of Ordinances, Section 2.8 City Employees.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OLMOS PARK, TEXAS, THAT:

Section 1. Amendments. The Olmos Park Code of Ordinances Chapter 2 Section 2.8 is hereby amended as shown in Exhibit A attached hereto and incorporated for all purposes.

Section 2. Findings. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. Cumulative Clause. This Ordinance shall be cumulative of all provisions of ordinances of the City of Olmos Park, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any renumbering shall be made as necessary in the City's Code of Ordinances as necessary.

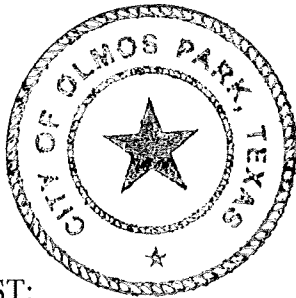
Section 4. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this

Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5. Public Meeting. That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 6. Effective Date. This ordinance shall take effect immediately from and after its passage and any publication requirements.

PASSED AND APPROVED on first reading this 18 day of September, 2024.



Erin Harrison
Erin Harrison, Mayor

ATTEST:

Hilary Pickard
Hilary Pickard
City Secretary

EXHIBIT A

Chapter 2, Section 2-8 of the Olmos Park City Code is amended as set forth below: (additions are shown as underscore)

Sec. 2-8. City employees.

- (a) *Equal opportunity policy.* Affirmative action shall be taken to ensure equal opportunities for all employees and prospective employees engaged in or to be engaged in service for the city. Discrimination against any individual in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration because of political or religious opinions and affiliations, membership or nonmembership in employee organizations, or because of race, color, national origin, marital status, or other nonmerit factor is prohibited. Discrimination on the basis of age, sex, or physical disability requirements is prohibited except where specific age, sex or physical requirements constitute a bona fide occupational qualification.
- (b) ~~*Personnel administration policies discipline.*~~ The city manager or designee thereof may take disciplinary action against an employee for just cause. Just cause shall be related to the job involved and shall include but not be limited to illegal, unethical, abusive or unsafe acts; violation of city rules, regulations, policies or procedures; insubordination; inefficiency; neglect or abandonment of duties; participation in prohibited political activity or solicitation; abuse of illness, injury, disability, or other benefits; tardiness or absence without leave; falsification of official documents or records; using or being under the influence of drugs or intoxicating beverages while on duty; waste, damage, or unauthorized use of city resources; unauthorized use or disclosure of official information; and unauthorized or improper use of official authority.
- (c) ~~*Types of disciplinary action.*~~ Formal disciplinary action taken shall be consistent with the nature of the deficiency or infraction involved and the record of the employee. Formal disciplinary action shall include oral admonition or reprimand, written reprimand, suspension, and/or dismissal. Any of the foregoing types of formal disciplinary action may be invoked for a particular deficiency or infraction, depending upon the circumstances. An employee may be warned at anytime that he or she may be dismissed or otherwise disciplined for further unsatisfactory performance and/or conduct; however, such warning shall not be a condition precedent to dismissal for cause. Nothing herein shall prohibit for just cause, the administration of informal disciplinary action such as oral reprimands. All disciplinary actions taken shall be documented in the employee's file noting the infraction and the action taken in response to the infraction.
- (d) ~~*Written reprimand.*~~ In the interest of good discipline and under justifiable circumstances, an employee may be reprimanded in writing. The written reprimand shall describe the deficiency or infraction involved and shall state the likely consequences of further unsatisfactory performance and/or conduct. A copy of the reprimand shall be kept in the employee's official personnel file until one year has elapsed without other formal disciplinary action being taken.
- (e) ~~*Suspension.*~~ In the interest of good discipline and under justifiable circumstances, a department head may suspend an employee without pay for a period not to exceed 15 calendar days and the city manager may suspend an employee for a period not exceeding 30 calendar days without pay. A written notice of suspension must be given to the employee which describes the deficiency or infraction involved and which states the likely consequences of further unsatisfactory performance and/or conduct. The suspension shall be noted in the employee's personnel file. When the employee is under investigation for a crime or official misconduct or is awaiting hearing on a trial in a criminal matter, he may be suspended without pay for the duration of the proceedings when such suspension would be in the best interest on the city and the public. If the employee

under investigation is cleared, he shall be eligible for reinstatement under such terms and conditions as may be specified by the city manager.

- (f) ~~Dismissal.~~ In the interest of good discipline and under justifiable circumstances, an employee may be dismissed by the city manager from service with the city for any of the following acts or conduct:

- (1) ~~Conviction under felony charges.~~
- (2) ~~Repeated convictions during service on misdemeanor and/or traffic charges.~~
- (3) ~~Use of intoxicants or drugs while on duty, or repeated off-duty intoxication or use of drugs, regardless of whether or not legally convicted of same.~~
- (4) ~~Flagrant or persistent insubordination.~~
- (5) ~~Conduct subversive to the proper order, discipline, or morale of city services.~~
- (6) ~~Inciting or engaging in strikes or riots.~~
- (7) ~~Misappropriation or unauthorized use of city equipment, tools, machines, funds, etc.~~
- (8) ~~Incompetence or repeated neglect of duty.~~
- (9) ~~Repeated failure or neglect to meet credit obligations, particularly open accounts.~~
- (10) ~~Unauthorized absence from duty without satisfactory explanation.~~

- (g) ~~Appeal of disciplinary action.~~ Formal disciplinary action taken under this Code may be appealed by writing directly to the city manager within three working days following notice of the action. The action may be stayed pending a decision on the appeal or may take effect at any time after issuance of the notice as determined by the city manager. Upon request, an employee against whom the disciplinary action is taken shall be entitled to appear personally before the city manager with or without counsel. All parties shall have the opportunity to present and cross-examine witnesses who appear. The city manager, following careful investigation, shall have broad authority to approve, disapprove, modify, or rescind any actions taken or proposed and shall render a written decision. For employees other than department heads, the decision of the city manager shall be final. The city manager's decision may be appealed to the city council only for actions affecting department heads where the review will follow the same format as used by the city manager. There will be no right of appeal for probationary employees except on the grounds of discrimination by law or these rules.

- (h) *Participation in Texas Municipal Retirement System.* The city council, on behalf of said city, hereby exercises its option and elects to have the city and all of the employees of all departments existing on January 1, 1979, and those thereafter created participate in the Texas Municipal Retirement System (TMRS) as provided in the "TMRS Act" (Texas Municipal Retirement System Act, Subtitle G, Title 8, Texas Government Code) and all of the benefits and obligations of such system are hereby accepted as to such employees.

- (1) *Employees to become members of T.M.R.S.* Each person who becomes an employee of any participating department on or after the effective date of participation of such department shall become a member of the Texas Municipal Retirement System as a condition of his employment.
- (2) *Deposit to T.M.R.S.* In accordance with the provisions of the statute, the deposits to be made to the Texas Municipal Retirement System on account of current service of the employees of the several participating departments are hereby fixed at the rate of five percent of the full earnings of each employee of said departments.
- (3) *Prior service credit.* Each employee who qualifies for such credit shall be allowed "prior service credit" (as defined in subsection 6(b) of section VI of the TMRS Act) at the rate of 100 percent of the "base prior service credit" of such member, calculated in the manner prescribed in said Act.
- (4) *City's contribution to T.M.R.S.* For each month of current service rendered to this city by each of its employees who are members of the Texas Municipal Retirement System, the city will contribute to the

current service annuity reserve of each such member at the time of his retirement, a sum that is 200 percent of such member's accumulated deposits for such month of employment.

- (5) *City manager to operate fund.* The city manager is hereby directed to remit to the board of trustees of the Texas Municipal Retirement System at its office in Austin, Texas, the city's contributions to the system and the amounts which shall be deducted from the compensation or payroll of employees, all as required by said board under the provisions of the TMRS Act, and is hereby authorized and directed to ascertain and certify officially on behalf of the city, the prior service rendered to the city by each of the employees of the participating departments, and the average prior service compensation received by each, and to make and execute all prior service certifications and all other reports and certifications which may be required of the city, under the provisions of TMRS Act, or in compliance with the rules and regulations of the board of trustees of the Texas Municipal Retirement System.
 - (6) *Effective date of participation.* Participation of the above-mentioned employees in the Texas Municipal Retirement System shall become effective on July 1, 1979.
- (i) *Participation in supplemental benefits fund of the Texas Municipal Retirement System.* The city, by its city council, hereby elects to have the employees of all participating departments of said city participate in and be covered by the supplemental benefits fund of the Texas Municipal Retirement System, as provided by Chapter 312, Acts Regular Session 56th Legislature; and all the benefits and obligations of participation in said fund are hereby accepted by the city as to such employees.
- (1) *City employees to become members.* Each person who becomes an employee of any participating department on or after the effective date of participation of such department in said fund shall, as a condition of his employment, be covered into the supplemental benefits funds of said system. The city may in the future refuse to add new departments or new employees to said fund, but shall never discontinue as to any members who are covered into the fund.
 - (2) *City manager to operate fund.* The city manager is hereby directed to remit monthly to the board of trustees of the Texas Municipal Retirement System at its office in Austin, Texas, as the city's contributions to the supplemental benefits fund of the Texas Municipal Retirement System, such percentage of earnings of the above-mentioned employees of said city as may be fixed by the board of trustees of the Texas Municipal Retirement System, provided that the rate of contribution to said fund shall not exceed one-half of one percent of the earnings of the employees of said city who are covered under said fund; and such official shall make for the city such reports as the board of trustees of the municipal retirement system may prescribe.
 - (3) *Effective date of participation.* Participation of the above-mentioned employees in the supplemental benefits fund shall be effective January 1, 1979.
- (j) *Retirement conditions.* The city is a member of the Texas Municipal Retirement System. The purpose of this system is to provide a dependable plan for the retirement of employees of Texas municipalities. This plan requires a contribution from each permanent participating employee equal to five percent of his monthly earnings consistent with the selected retirement program. An additional amount shall be contributed by the city, and funds thus obtained shall provide the financial basis for monthly benefits for employees retired under this system. Membership in the retirement system is compulsory for all employees in participating departments in permanent positions who have not reached the age of 50 years at the time of original employment. There shall be a six-month waiting period before employees will be enrolled in the system; however, the city manager may waive all or any portion of this six-month period upon a recommendation by a departmental head. A member becomes eligible for service retirement under the system in any of the following ways:
- (1) A member who has at least 15 years of creditable service and who has reached the age of 60 is eligible to retire.
 - (2) A member with at least 28 years of creditable service can retire, regardless of age.
 - (3) A member who has at least 25 years of creditable service can retire if he has reached the age of 50 years.

- (k) *Worker's compensation plan.* On behalf of the City of Olmos Park, Texas, the city council hereby exercises its option and elects to have all of the employees of the city governed by the Worker's Compensation Law as provided by V.T.C.A., Labor Code title 5.
- (l) *Group life and hospitalization insurance.* A group hospital insurance plan covering both hospital and surgical expenses and life insurance is provided to all permanent employees of the city with the cost of the insurance being borne by the city. Permanent city employees may elect to add to their coverage at their own expense the members of their immediate family. The cost of this elected coverage shall be paid by payroll deduction. Application for dependent coverage under the group hospital insurance plan for an employee to be insured without medical question must be submitted within 30 days of employment. Late enrollment must satisfy insurability to the satisfaction of the insurance company at the expense of the employee. The city's participation in the premium cost of such insurance shall not exceed 50 percent.
- (m) *Social security fund.* The city council, acting for and on behalf of the city, shall enter into all necessary agreements with the state department of public welfare for the purpose of carrying out the provisions of House Bill 603, Acts 52nd Leg., R.S. 1951, and Public Law 734, 81st Congress, Ch. 809, 2d, H.R. 6000, which provide that incorporated cities of this state may enter into such agreements and secure the benefits of Federal Old-Age and Survivors Insurance as outlined in said laws.
 - (1) *Mayor to act as agent for city.* The mayor is hereby appointed as agent of the city council and the city to execute all necessary agreements and instruments for and in behalf of said city council and city.
 - (2) *Administration of fund.* The city secretary is hereby directed to be the person responsible for making assessments, collections, payments, and reports, as required by the state department of public welfare.
 - (3) *Establishment of fund.* A sufficient sum of money is to be allocated and set aside from available funds for the purpose of carrying out the provisions of the above-mentioned acts, which shall be set aside and maintained in the regular city depository.

(Code 1985, § 2.600; Ord. No. 527, 8-16-1962; Ord. No. 581, 2-8-1971; Ord. No. 604, 6-25-1979; Ord. of 7-17-1990)