

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF COMMERCE AMENDING CHAPTER 2.04 REGARDING THE CITY ADMINISTRATOR POSITION**

**WHEREAS**, the council-manager form is the system of local government that combines the strong political leadership of elected officials in the form of a council or other governing body, with the strong managerial experience of an appointed local government manager; and

**WHEREAS**, the form establishes a representative system where all power is concentrated in the elected council and where the council hires a professionally trained manager to oversee the delivery of public services; and

**WHEREAS**, in council-manager government, council members are the leaders and policy makers elected to represent various segments of the community and to concentrate on policy issues that are responsive to citizens' needs and wishes; and

**WHEREAS**, the manager is appointed by council to carry out policy and ensure that the entire community is being served. If the manager is not responsive to the council's wishes, the council has authority to terminate the manager at any time, subject to narrow limitations contained in Chapter 2.04; and

**WHEREAS**, the council-manager form of government is currently used by over 3,625 cities in the United States and more than 75.5 million Americans live under council-manager form of government; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE DOES HEREBY RESOLVE, DECLARE AND DETERMINE AS FOLLOWS:**

Section 1. The City Council of the City of Commerce hereby finds and declares the recitals set forth hereinabove are incorporated herein and by this reference are made part of the findings.

Section 2. The City Council hereby amends Chapter 2.04 of the Commerce Municipal Code to read as follows:

2.04.010 – Office Created.

The office of the city administrator is created and established. The city administrator shall be appointed by the city council solely on the basis of his executive and administrative qualifications and ability, and shall hold office as determined by the city council. The City Administrator shall henceforth now be titled city manager.

#### 2.04.020 – Eligibility.

No person elected to membership on the city council shall, subsequent to election, be eligible for appointment as city ~~administrator~~ manager until one year has elapsed after he has ceased to be a member of the city council.

#### 2.04.030 – Bond.

The city ~~administrator~~ manager shall furnish a corporate surety bond to be approved by the city council in such sum as may be approved by the city council. It shall be conditioned on the faithful performance of the duties imposed on the city administrator as herein prescribed.

#### 2.04.040 – Substitute ~~administrator~~ manager.

In case of the absence or disability of the city administrator, the city council has designated the assistant city administrator, henceforth assistant city manager as the ~~may designate some~~ duly qualified person to perform the duties of the city ~~administrator~~ manager during the period of his or her absence or disability, subject, however, to the person's furnishing a corporate surety bond and conditioned on faithful performance of the duties required to be performed, as set forth in this chapter.

#### 2.04.050 – Removal in general.

The city council shall appoint the city ~~administrator~~ manager and may remove him or her, subject to his contractual rights, if any, by a four-member vote. At least thirty days before the removal becomes effective, the city council shall, by a four member vote of its members, adopt a preliminary resolution stating the reason for his or her removal. By the preliminary resolution, the council may suspend the administrator from duty, but shall in any case cause to be paid to him or her forthwith any unpaid balance of his monthly salary. His or her monthly salary shall continue to be paid for the next one calendar month following adoption of the preliminary resolution.

#### 2.04.060 – Removal after municipal election.

Notwithstanding the provisions of Section 2.04.050, the city ~~administrator~~ manager shall not be removed from office during or within a period of ninety days next succeeding any general municipal election held in the city at which election a member of the city council is elected. The purpose of this provision is to allow any newly elected member of the city council or a reorganized city council to observe the actions and ability of the city ~~administrator~~ manager in the performance of the powers and duties of his or her office. After the expiration of the ninety days aforementioned, the provisions of Section 2.04.050 shall apply and be effective.

#### 2.04.070 – Compensation.

The city ~~administrator~~ manager shall receive such compensation as the city council shall, from time to time, determine and fix. Compensation shall be a proper charge against such funds of the city as the city council shall designate.

The city ~~administrator~~ manager shall be reimbursed for all sums necessarily incurred or paid by him or her in the performance of his duties, or incurred when travelling on business pertaining to the city under direction of the city council. Reimbursement shall only be made, however, when a verified itemized claim, setting forth the sums expended for which reimbursement is requested, has been presented to the city council, and by said city council been duly approved and allowed.

#### Section 2.04.080 – Powers and duties.

The city ~~administrator~~ manager shall be the administrative head of the city government, under the direction and control of the city council, except as otherwise provided in this code. He or she shall be responsible for the efficient administration of all of the affairs of the city which are under his or her control. In addition to his her general powers as administrative head, and not as a limitation thereon, it is his her duty and he or she shall have the power:

(1) To see that the laws of the State of California pertaining to the city and all laws and ordinances of the city are duly enforced, and that all franchises, permits, and privileges granted by the city are faithfully observed.

(2) To appoint, promote, direct, classify, transfer, discipline, suspend, demote, remove and take other actions affecting the employees of the city as may be reasonably necessary; ~~provided, however, that the hiring and dismissal of the city clerk, assistant city administrator, department heads and assistant department heads shall be done by the city council after receipt and consideration of the recommendation of the city administrator.~~ Hiring selections shall be made from the highest band of candidates, as determined by the city's standard recruitment and testing procedures. These powers vested in the city ~~administrator~~ manager may be delegated to the assistant city manager or another duly qualified city department head in the absence of both the city manager and assistant city manager as necessary for effective operation of the city department. The ~~city treasurer and city attorney are~~ is not subject to the powers of the city ~~administrator~~ manager.

(3) To exercise control over and to supervise in general all departments and divisions of the city government and all appointive officers and employees thereof, except the city attorney ~~and the city treasurer~~.

(4) To attend all meetings of the city council and its committees unless excused there from by the city council.

(5) To recommend to the city council for adoption such measures and ordinances as he or she deems necessary or expedient.

(6) To keep the city council at all times fully advised as to the financial conditions and needs of the city.

(7) To prepare and submit to the city council the annual budget and to administer it after adoption.

(8) To prepare and to recommend to the city council a salary plan.

(9) To purchase or cause to be purchased all supplies for all of the departments or divisions of the city. No expenditure shall be submitted or recommended to the city council except upon report or approval of the city administrator.

(10) To make investigations into the affairs of the city and any department or divisions thereof, and any contract or the proper performance of any obligation running to the city.

(11) To investigate all complaints in relation to matters concerning the administration of the government of the city and in regard to the service maintained by public utilities, and to see that all franchises, permits and privileges granted by the city are faithfully observed.

(12) To exercise general supervision over all public buildings, public parks, streets, and other public property which are under the control and jurisdiction of the city council.

(13) To devote his or her entire time to the duties and interests of the city.

(14) To ~~act as local director of civilian defense.~~ oversee the city's public safety operations and emergency management operations.

(15) To make reports and recommendations as may be desirable or as requested by the city council.

(16) To serve in an appointed office or head of department within the city government to which he or she may be qualified ~~when appointed thereto by the city council and to hold~~ and perform the duties thereof at the pleasure of the city council.

(17) To perform such other duties and exercise such other powers as may be delegated to him from time to time by ordinance or resolution of the city council.

Section 2.04.090 – Ex officio member of boards and commissions.

The city administrator manager shall be an ex officio member of all boards and commissions appointed by the mayor or city council pursuant to law with a right to participate in all deliberations or actions by his voice but without vote.

Section 2.04.100 – Cooperation of other officers required

It is the duty of all subordinate officers and ~~of the city clerk, the city treasurer, and the city attorney~~ to cooperate with and assist the city ~~administrator~~ manager in administering the affairs of the city most efficiently, economically, and harmoniously so far as may be consistent with their duties as prescribed by law and ordinances.

Section 2.04.110 – City council to work through ~~administrator~~ manager

The city council and its members shall deal with the administrative services of the city only through the city ~~administrator~~ manager, except for the purpose of inquiry. Neither the city council nor any members thereof shall give orders to any subordinates of the city ~~administrator~~ manager.

Section 3. Severability. If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this title; it being hereby expressly declared that this title, and each section, subsection, sentence, clause, and phrase hereof, would have been prepared, proposed, adopted, approved, and ratified irrespective of the fact that any single section subsection, sentence, clause, or phrases be declared invalid or unconstitutional.

Section 4. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

Section 5. Effective Date. This ordinance shall take effect thirty (30) days after its passage and adoption pursuant to California Government Code 36937.

PASSED, APPROVED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2019.

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Hugo A. Argumedo, Mayor

ATTEST:

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Lena Shumway, City Clerk

