ORDINANCE NO. 08-2012

TITLE

AN ORDINANCE TO AMEND ORDINANCE NO. 27-85, TITLED "A PERSONNEL PLAN FOR EMPLOYEES OF THE CITY OF OAK RIDGE, TENNESSEE," AS AMENDED, BY DELETING SUBSECTION 7.2.B, TITLED "NEPOTISM," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW SUBSECTION 7.2.B, TITLED "NEPOTISM"; DELETING SUBSECTION 9.1.D, TITLED "LAYOFF," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW SUBSECTION 9.1.D, TITLED "LAYOFF"; RENUMBERING EXISTING SUBSECTIONS 9.1.E, TITLED "REMOVAL," 9.1.F, TITLED "DISMISSAL," AND 9.1.G, TITLED "DEATH," TO BE SUBSECTIONS 9.1.G, 9.1.H AND 9.1.I RESPECTIVELY; CREATING A NEW SUBSECTION 9.1.E, TITLED "REORGANIZATION;" CREATING A NEW SUBSECTION 9.1.F, TITLED "SEVERANCE PACKAGE;" DELETING SUBSECTION 11.4, TITLED "LEAVE," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW SUBSECTION 11.4, TITLED "LEAVE"; AND AMENDING SUBSECTION 13.3, TITLED "EMPLOYEE POLITICAL ACTIVITY," BY CREATING A NEW SUBSECTION (E), ALL FOR THE PURPOSE OF UPDATING THE PERSONNEL PLAN.

WHEREAS, the City desires to expand the nepotism provision to increase the definition of "immediate family" when prohibiting family members from holding a position of supervision or accountability, to prohibit future hires from being related to existing employees within the same department, and to require a transfer or resignation if two employees in the same department marry; and

WHEREAS, the City desires to clarify the provisions pertaining to layoffs and to create a provision on reorganization and establish a severance packages for employees who lose their job due to a layoff or reorganization; and

WHEREAS, the City desires to update and revise the provision on injury leave and establish a provision for modified/ light duty; and

WHEREAS, the City desires to codify the City's practice of not permitting employees to serve on City Council created/appointed boards, commissions or committees as voting members; and

WHEREAS, the Personnel Advisory Board at its April 13, 2012 meeting reviewed the proposed amendments to the Personnel Plan and unanimously recommended their adoption; and

WHEREAS, the City Manager recommends that the Personnel Plan be amended as set forth above.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Ordinance No. 27-85, titled "A Personnel Plan for Employees of the City of Oak Ridge, Tennessee," Article 7, "Recruitment, Selection and Appointment of Employees," is hereby amended by deleting Subsection 7.2.B, titled "Nepotism," in its entirety, and substituting therefor a new Subsection 7.2.B, titled "Nepotism," which subsection shall read as follows:

7.2.B. NEPOTISM

Employees shall not be placed in positions under the supervision or accountability of any family member.

With the exception of seasonal and temporary Recreation Department employees, applicants will not be considered or hired into a department where a member of the immediate family is currently employed. Current employees will not be promoted or transferred to a department where a member of the immediate family is currently

employed. Immediate family is defined as spouse, child or step-child, daughter-in-law, son-in-law, parent, parent-in-law, brother, brother-in-law, sister and sister-in-law. Other relationships may be added by the City Manager.

If two employees in the same department marry, then one of those employees must resign from City employment or apply for a transfer to another department should a vacancy be available at that time. Selection for that vacancy will be based on the qualifications of all applicants and not on the present employment status. This change must occur within sixty (60) days of the marriage. Failure to comply will result in the termination of one or both employees.

Section 2. Ordinance No. 27-85, titled "A Personnel Plan for Employees of the City of Oak Ridge, Tennessee," Article 9, "Terminations and Disciplinary Actions," Section 9.1, titled "Terminations," is hereby amended by deleting Subsection 9.1.d, titled "Layoff," in its entirety, and substituting therefor a new Subsection 9.1.d, titled "Layoff," which subsection shall read as follows:

9.1 TERMINATIONS

d. Layoff. When a regular position is discontinued or abolished due to lack of funds, the City Manager shall determine the order of layoff of employees on the basis of the relative suitability for the jobs that remain. However, no regular employee shall be terminated while there is a temporary or probationary employee in any class in his or her department performing duties for which the regular employee is at least equally qualified and applies. The employee to be laid off would have to go through the recruitment process for any vacant positions in other departments.

Regular employees subject to layoff shall be notified in writing two (2) weeks prior to the effective date.

Temporary and seasonal employees shall receive a layoff when the authorized time for their specific position has lapsed, or when their services are no longer required.

Section 3. Ordinance No. 27-85, titled "A Personnel Plan for Employees of the City of Oak Ridge, Tennessee," Article 9, "Terminations and Disciplinary Actions," Section 9.1, titled "Terminations," is hereby amended by renumbering existing Subsection 9.1.e, titled "Removal," to Subsection 9.1.g, existing Subsection 9.1.f, titled "Dismissal," to Subsection 9.1.h, and existing Subsection 9.1.g, titled "Death," to Subsection 9.1.i, and creating a new Subsection 9.1.e, titled "Reorganization," and a new Subsection 9.1.f, titled "Severance Package," which new subsections shall read as follows:

9.1 TERMINATIONS

e. Reorganization. From time to time, the City Manager and various heads of departments may reorganize the structure of different City operations. Due to efficiencies or improved streamlining of operations, positions may be eliminated, consolidated, or reclassified. Notice in these situations shall occur at least four (4) weeks in advance of the change to allow the affected employee to find other employment within or without the organization.

f. Severance Package. Regular employees who have actually lost their jobs due to a Layoff or as a result of Reorganization shall be granted a severance package of one weeks' pay for each full year (twenty-six pay periods) they have been employed by the City as regular employees. The weeks that are payable in the severance package shall be reduced by the amount of notice the City has provided to the employee. Upon receipt of proof of payment from the medical insurance provider, the City will reimburse the terminated employee for the COBRA rate for

continuation of medical insurance for two (2) months following the effective date of the layoff or the reorganization.

Section 4. Ordinance No. 27-85, titled "A Personnel Plan for Employees of the City of Oak Ridge, Tennessee," Article 11, "Leave," is hereby amended by deleting Section 11.4, titled "Injury Leave," in its entirety, and substituting therefor a new Subsection 11.4, titled "Injury Leave," which subsection shall read as follows:

11.4 INJURY LEAVE

Leave with pay may be approved for a period determined by the City Manager, upon the recommendation of the head of the department and the Personnel Director, but not to exceed twelve (12) work weeks for any one disabling injury incurred while performing job-related duties. This would be a total of 480 hours for regular full-time employees and 672 hours for Fire station-based shift employees. The employee's department will make the injury leave request on the appropriate form. Other leave benefits are not accrued and holiday leave is not granted when an employee is on injury leave. If there is a reoccurrence of the same injury after the employee has returned to work, supporting medical documentation must be provided and any additional lost time hours are considered part of the maximum the City provides.

A First Report of Injury Form and a City Incident Report shall contain a statement by the employee, unless he or she is incapacitated, statements from all witnesses, confirmed by the supervisor and/or head of the department. This documentation shall describe the circumstances, cause, nature and extent of the injury and must be completed in full and presented to the Personnel Department within the first twenty-four (24) hours of injury. Injuries requiring medical treatment must include a licensed medical professional's statement indicating treatment, diagnosis, prescription medications and the probable period of disability. Every period of leave granted under the provisions of this rule shall be considered creditable service and shall be indicated on the employee's leave records, but shall not be charged to any other type of leave.

The City reserves the right to obtain other medical opinions regarding the employee's injured condition. Employee refusal to cooperate in the seeking of these opinions or to follow rehabilitation/recuperation instructions from the licensed medical professional, or the employee changing the date and/or time of a medical appointment without adequate justification and prior approval of the Personnel Department, and/or failure to provide all medical documentation (including prescription medications) received by the employee may constitute grounds for denying injury leave benefits and may result in disciplinary action.

If an injury results in lost time from work, the employee will be subject to drug/alcohol testing while on injury leave. Any employee returning to work after a prolonged absence of 240 hours or more for a 40 hour per week employee and 336 hours for Fire Department station based employees will be required to submit for a Return after Injury/Illness drug and alcohol screen. The use of any substance which carries a label that indicates the potential for impaired mental functioning, motor skills, or judgment must be reported to Personnel and the employee's supervisor. Medical advice and written authorization from the attending physician must be provided by the employee before performing work related duties. Failure to disclose prescription drug use of any substance defined in this ordinance will result in discipline up to and including termination.

At the department head's discretion, any employee returning to work after a prolonged period of time as defined above may not be scheduled for overtime or standby status, except in cases of emergency, for a six- month period. Approval of additional

employment as specified in the Personnel Plan Article 13.1 will also be revoked for six months.

When injury leave is used, an employee shall be protected against loss of pay. The regular salary shall be paid during this leave, but any amount received on behalf of the employee in Worker's Compensation insurance payments (excluding medical and hospitalization payments) shall be returned to the City. Every attempt will be made to return the individual on injury leave to modified or light duty as soon as possible.

If the employee has been granted the maximum for injury leave as specified above and is still not able to return to work, and the attending physician indicates that the employee can eventually return to normal job duties, the City Manager may grant additional paid injury leave. Otherwise, the City will place the employee in a "Leave Without Pay" status for 26 work weeks (1040 hours for 40 hour per week employees and 1456 for Fire Department) and the employee will be eligible for Temporary Total Disability (TTD) benefits provided by Worker's Compensation Insurance. During this period, the employee will be responsible for paying the City for his/her normal deductions for the benefit program. The employee also has the option of using any accumulated General Leave or Emergency Leave.

After the 26 work weeks of "Leave without Pay" (1040 hours for 40 hour per week employees and 1456 for Fire Department), if the employee is still not able to return to normal job duties, the Personnel Department will begin processing a Disability Retirement, if applicable, for the injured employee. The employee will be removed from the City's payroll on a disability basis.

If the injury is such that an impairment rating and subsequent monetary settlement is awarded, the awarded amount will be reduced by the amount the City has subsidized the TTD benefits from the Worker's Compensation Insurance program.

MODIFIED/LIGHT DUTY

If the injured employee is not able to perform the normal job duties but can perform tasks associated with a lower position in the classification plan, whether in the employee's designated department or other City department, a modified work plan will be required by the City. This modified or "light duty" plan shall compensate the employee at the normal rate of pay for a three (3) month period, beyond which the employee's salary shall be reduced at least ten percent (10%) or to the maximum of the pay grade associated with the light duty work. All Department Directors will assess work to be completed within their respective areas and provide "modified/light duty" assignments to the Personnel Department on an as needed basis. The injured employee must contact the Personnel Department on a designated day each week to determine if accommodation for modified/light duty can be made. Safety training needs of the injured employee can also be considered an assignment. The Personnel Department can provide training materials for this purpose.

Section 5. Ordinance No. 27-85, titled "A Personnel Plan for Employees of the City of Oak Ridge, Tennessee," Article 13, "Conduct of Employees," Section 13.3, titled "Employee Political Activity," is hereby amended by creating a new Subsection 13.3.e, which subsection shall read as follows:

13.3 EMPLOYEE POLITICAL ACTIVITY

e. Active City employees may not serve on a City Council appointed board, commission or committee unless they are serving as staff representatives without voting privileges.

Section 6. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

Kenneth R. Krushenski, City Attorney

Thomas L. Beehan, Mayor

Diana R. Stanley, City Clerk

First Reading:	05/07/2012
Publication Date:	05/14/2012
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