ORDINANCE NO. 23-2019

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 UPDATING THE FOLLOWING SECTIONS: ARTICLE 2, TITLED "SCOPE OF CLASSIFIED SERVICE"; SECTION 5.3, TITLED "ENTRY LEVEL SALARY RATES"; SUBSECTIONS B AND C OF SECTION 5.4, TITLED "COMPENSATION PLAN ADMINISTRATION"; SECTION 5.5, TITLED "CITY ATTORNEY AND CITY DEFENSE ATTORNEY"; SECTION 6.5, TITLED "CALL-OUT GUARANTEE"; SUBSECTION 7.2.B, TITLED "NEPOTISM"; SUBSECTION 7.2.D, TITLED "RE-EMPLOYMENT RIGHTS"; SUBSECTIONS B AND H AND FINAL PAYMENT OF SECTION 9.1, TITLED "TERMINATIONS"; SUBSECTION C OF SECTION 10.3, TITLED "GRIEVANCE PROCEDURE"; SUBSECTION C OF SECTION 11.1, TITLED "GENERAL LEAVE"; AND SUBSECTION A OF SECTION 11.2, TITLED "EMERGENCY LEAVE"; ALL FOR THE PURPOSES OF UPDATING THE PERSONNEL PLAN AS SET FORTH BELOW.

WHEREAS, a multiyear review of the personnel ordinance has resulted in proposed housekeeping amendments to provide greater clarification, section renumbering, and removal of outdated positions; and

WHEREAS, in addition to housekeeping amendments, three substantive amendments are proposed: (1) establishing a schedule for grievance hearings to ensure hearings are held in a timely manner, (2) removing the number of "permitted" unscheduled general leave absences and establishing a communication between the supervisor and employee regarding the use of said leave, and (3) delaying the initial 140-hour emergency leave credit for new hires until completion of probation; and

WHEREAS, at its July 25, 2019 and August 28, 2019 meetings, the Personnel Advisory Board recommended the proposed amendments to the Personnel Plan for Council's approval; and

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

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," is hereby amended by deleting Article 2, titled "Scope of Classified Service," in its entirety and substituting therefor a new Article 2, titled "Scope of Classified Service," which new article shall read as follows:

ARTICLE 2 – SCOPE OF CLASSIFIED SERVICE

The classified service includes all positions in the public service now existing or hereafter established, except the following:

1. All elective officials;

2. Members of boards and commissions who are not City employees;

3. The City Manager, City Attorney (see Article 5, Section 5.5), Department Heads, and the City Manager's assistant;
4. Persons employed to make or conduct a temporary and special inquiry, investigation or examination who are engaged by the City on a contractual or consultant basis;

5. Personnel appointed or volunteering to serve without pay; and

6. Officers and employees of the City school system covered by Article 6, Section I of the City Charter.

The positions of City Manager's assistant and Department Heads shall serve at the discretion of the City Manager. They shall be considered regular employees and are covered by the provisions in the articles pertaining to classification, pay, hours of work, leave, employee development and benefit activities, and conduct.

Although the City Manager is excluded from the classified service, the incumbent shall be considered a regular employee and shall be entitled to leave and employee benefit programs and is covered by the provisions pertaining to conduct. All other conditions of employment are as specified in the City Charter or by City Council.

The City Judge is authorized to appoint, promote, suspend, remove, or take any other established personnel action with respect to the Court Clerk and other Court employees consistent with the provisions of the City Charter.

Section 2. Ordinance No. 27-85, titled "A Personnel Plan for Employees of the City of Oak Ridge, Tennessee," Article 5, titled "Pay Plan," Section 5.3, titled "Entry Level Salary Rates," is hereby amended by renumbering subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively, in response to the deletion of subsection (b) accomplished through Ordinance 17-2018.

Section 3. Ordinance No. 27-85, titled "A Personnel Plan for Employees of the City of Oak Ridge, Tennessee," Article 5, titled "Pay Plan," Section 5.4, titled "Compensation Plan Administration," is hereby amended by deleting Subsection 5.4.b. in its entirety and substituting therefor a new Subsection 5.4.b., which new subsection shall read as follows:

5.4 COMPENSATION PLAN ADMINISTRATION

b. The immediate supervisor shall evaluate each employee in writing at least semi-annually.

Section 4. Ordinance No. 27-85, titled "A Personnel Plan for Employees of the City of Oak Ridge, Tennessee," Article 5, titled "Pay Plan," Section 5.4, titled "Compensation Plan Administration," is hereby amended by deleting Subsection 5.4.c. in its entirety and substituting therefor a new Subsection 5.4.c., which new subsection shall read as follows:

5.4 COMPENSATION PLAN ADMINISTRATION

c. Salary increases within the range shall be dependent upon the employee's performance, the recommendation of the head of the department concerned, review by the Director of Administrative Services, and approval by the City Manager. An employee will be at a pay level for at least six months before becoming eligible on the following July 1 for a possible merit salary increase within the pay group.

Section 5. Ordinance No. 27-85, titled "A Personnel Plan for Employees of the City of Oak Ridge, Tennessee," Article 5, titled "Pay Plan," is hereby amended by deleting Section 5.5, titled "City Attorney and City Defense Attorney," in its entirety and substituting therefor a new Section 5.5, titled "City
Attorney," which new section shall read as follows:

5.5 CITY ATTORNEY

The City Council, by resolution, shall fix the salary for the City Attorney. Other attorneys hired for special assistance will be on a contract basis.

Section 6. Ordinance No. 27-85, titled "A Personnel Plan for Employees of the City of Oak Ridge, Tennessee," Article 6, titled "Hours of Work, Overtime and Premium Compensation," is hereby amended by deleting Section 6.5, titled "Call-Out Guarantee," in its entirety and substituting therefor a new Section 6.5, titled "Call-Out Guarantee," which new section shall read as follows:

6.5 CALL-OUT GUARANTEE

Any non-exempt employee who, after departing from the regularly scheduled work shift, is officially called to and does report back to work for emergency service, is guaranteed pay for the time actually worked or for a minimum period of two hours whichever is greater. However, under no circumstances shall an employee be compensated more than once for the minimum two hours period.


7.2 SELECTION POLICY

7.2.B. NEPOTISM

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

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.


7.2 SELECTION POLICY

7.2.D. RE-EMPLOYMENT RIGHTS

Any regular employee who leaves the job, voluntarily or involuntarily, to enter active duty in the United States armed forces may return to the job in accordance with the Uniformed Services' Employment and Re-employment Rights Act of 1994 (§ 43) and the provisions of Tennessee Code Annotated §8-33-101 et seq. Once the official orders are received, the
employee will be placed on military leave without pay and must apply for reinstatement within ninety (90) days after release from active military duty.

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

9.1 TERMINATIONS

b. Retirement. Employees shall be eligible for retirement upon meeting the age or years of service provisions prescribed by the Tennessee Consolidated Retirement System. Employees choosing to retire are required to submit a formal resignation notice, providing a minimum of two weeks' notice.

Section 10. Ordinance No. 27-85, titled “A Personnel Plan for Employees of the City of Oak Ridge, Tennessee,” Article 9, titled “Terminations and Disciplinary Actions,” Section 9.1, titled “Terminations,” is hereby amended by deleting Subsection h, titled “Dismissal,” in its entirety and substituting therefor a new Subsection h, titled “Dismissal,” which new subsection shall read as follows:

9.1 TERMINATIONS

h. Dismissal. The City Manager may dismiss an employee for the good of the City with reasons for dismissal including but not limited to:

1. Theft or destruction of City property;
2. Incompetency, inefficiency or negligence in the performance of duties;
3. Insubordination that constitutes a serious breach of discipline;
4. Advocacy of or participation in group tactics which disrupt normal work performance including, but not limited to, walk-outs, slow-downs, and other such activities not authorized by law.
5. Conviction of a criminal offense;
6. Unauthorized absences or abuse of leave privileges;
7. Acceptance of any consideration given with the expectation of influencing the employee in performance of the duties;
8. Falsification of records;
9. Use of official position for personal advantage;
10. Association with subversive groups as defined by appropriate Federal directive.

An employee who is being dismissed shall be provided an advance written notice containing the nature of the action, the reasons therefore and the right to answer the charges orally or in writing.

Section 11. Ordinance No. 27-85, titled “A Personnel Plan for Employees of the City of Oak Ridge, Tennessee,” Article 9, titled “Terminations and Disciplinary Actions,” Section 9.1, titled “Terminations,” is hereby amended by deleting the final paragraph of the section, titled “Final Payment,” in its entirety and
substituting therefor a new final paragraph, titled “Final Payment,” which new paragraph shall read as follows:

9.1 TERMINATIONS

Final Payment

Employees who terminate shall receive payment for all earned salary and accumulated General Leave as provided in Section 11.1 e of Article 11. However, prior to final payment, all items of City property in the employee’s custody shall be returned to the City. Any amount due because of a shortage in the returned items shall be withheld from the employee’s final compensation or collected through other appropriate action. Any outstanding reimbursement agreement debt owed the City shall also be withheld from an employee’s final payment.

Section 12. Ordinance No. 27-85, titled “A Personnel Plan for Employees of the City of Oak Ridge, Tennessee,” Article 10, titled “Grievance Procedure,” Section 10.3, titled “Grievance Procedure,” is hereby amended by deleting subsection C, titled “Unresolved Grievances Involving Suspensions, Dismissals, or Perceived Adverse Personnel Actions to be Brought to Personnel Advisory Board,” in its entirety and substituting therefor a new subsection C, titled “Unresolved Grievances Involving Suspensions, Dismissals, or Perceived Adverse Personnel Actions to be Brought to Personnel Advisory Board,” which new subsection shall read as follows:

10.3 GRIEVANCE PROCEDURE

C. Unresolved Grievances Involving Suspensions, Dismissals, or Perceived Adverse Personnel Actions to be Brought to Personnel Advisory Board

If an employee’s grievance is not resolved at the City Manager level and said grievance involves a suspension, dismissal, or otherwise adversely affected by a personnel action, the employee may appeal the grievance to the Personnel Advisory Board forwarding to the Director of Administrative Services the original grievance filed with the Department Head along with the Department Head’s/designee’s response and the City Manager’s/designee’s response, if any. No additional information may be submitted as part of the appeal nor will additional information be considered. This appeal must be filed in writing within ten (10) business days of the City Manager’s/designee’s decision. The Personnel Advisory Board will set a hearing date to occur within sixty (60) days of the appeals receipt to conduct a formal hearing on the employee’s grievance.

By City Charter Article V, Section 25, if in the opinion of the board, the procedures established for such personnel action were not complied with, the board shall make decisions that shall be binding on the City citing with specificity how the procedures were complied with by the City. In all other cases, the board shall report its findings and recommendations, which shall be advisory in nature, in writing to the City Manager, and the decision of the City Manager shall be final.

Section 13. Ordinance No. 27-85, titled “A Personnel Plan for Employees of the City of Oak Ridge, Tennessee,” Article 11, titled “Leave,” Section 11.1, titled “General Leave,” is hereby amended by deleting subsection c, titled “Granting General Leave,” in its entirety and substituting therefor a new subsection c, titled “Granting General Leave,” which new subsection shall read as follows:
11.1 GENERAL LEAVE

c. **Granting General Leave**

Requests for General Leave shall be formally requested and shall be submitted and approved prior to taking the leave in accordance with Departmental policies. Approval shall be determined on the basis of the work requirements of the City and, whenever possible, the personal wishes of the employee. General Leave granted shall not exceed the total amount credited to an employee at the start of the leave period, and General Leave shall be taken in multiples of one (1) hour. General Leave shall not be granted when it is known that the employee does not expect to return to duty, and terminations shall be effective as of the last day worked except in the case of disability or death.

In the case of unscheduled General Leave, employees, who are absent from duty, except police and fire employees, shall ensure that their respective supervisors are notified within one (1) hour after the usual reporting time, if physically able to do so. Police and fire employees shall notify their supervisors at least one hour before their scheduled duty. Upon return to work the employee shall immediately submit to the supervisor an authorization for leave form containing documentation identifying an approved reason for the use of unscheduled leave. Any unscheduled leave submitted without documentation or supervisor approval shall be considered as an unauthorized absence.

Leave covered by the Family Medical Leave Act, the Tennessee Maternity Leave Act, leave for which a statement signed by a licensed medical professional is provided and leave for funerals will not count as unauthorized absences.


11.2 EMERGENCY LEAVE

a. **Emergency Leave Minimum Requirement**

Regular fulltime employees must have a minimum of four hundred eighty (480) hours (672 hours for Fire Department station-based employees) and a proportionate share for regular part-time employees of Emergency Leave. If the balance of Emergency Leave is ever below the specified minimum, then two (2) hours of the General Leave accrual each pay period (2.8 hours for Fire Department station-based employees) and a proportionate amount for regular part-time employees shall be added to Emergency Leave until the minimum number of hours is reached.

New regular employees will be granted the equivalent of 140 hours of Emergency Leave with the equivalent of two (2) hours of their General Leave accrual going to Emergency Leave until the minimum is satisfied. New regular employees will not be credited the 140 initial hours of Emergency Leave until the end of their initial six (6) month probationary period.
Section 15. 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

Warren L. Gooch, Mayor

Mary Beth Hickman, City Clerk

First Reading: 09/09/2019
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