

ORDINANCE NO. 05-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING CHAPTER III OF TITLE 2, DELETING SECTION 2-75, CHAPTER VII OF TITLE 2, AMENDING SECTIONS 2-224 AND 2-224.5, AND CHAPTER IX OF TITLE 2, AMENDING SECTIONS 2-305 AND 2-309 OF THE COSTA MESA MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

The City Council of the City of Costa Mesa, California, does hereby declare:

WHEREAS, the California Government Code contains provisions relating to the introduction and adoption of ordinances which are binding on the City of Costa Mesa and which are in conflict with the provisions of Costa Mesa Municipal Code Title 2, Chapter X, Section 2-75, which section is therefore no longer necessary; and

WHEREAS, the City Council desires to eliminate superfluous and conflicting language from the Municipal Code; and

WHEREAS, the City Council has acted to contract out the function of City Attorney so that members of the City Attorney's Office are retained by contract and are not City employees; and

WHEREAS, the City Council wishes to amend the Costa Mesa Municipal Code to delete references to employment rights of the City Attorney; and

WHEREAS, the position of Assistant City Manager has been created as an at-will position, requiring amendment to Section 2-224.5 of the Municipal Code; and

WHEREAS, the City Council wishes to clarify the Appeal, Rehearing and Review Procedure to confirm existing practice with respect to the deadline for submissions of requests for appeal, rehearing and review.

NOW THEREFORE, the City Council of the City of Costa Mesa ordains as follows:

Section 1. Section 2-75 of the Costa Mesa Municipal Code is hereby repealed in its entirety.

Section 2. Section 2-224 of the Costa Mesa Municipal Code is hereby amended to read as follows:

“The provisions of the personnel rules relating to attendance and leaves shall apply to the city manager and other exempt positions.”

Section 3. Section 2-224.5 of the Costa Mesa Municipal Code is hereby amended to read as follows:

- “(a) Unless otherwise expressly provided for in an applicable collective bargaining agreement or employment contract, all city personnel employed as city manager, assistant city manager, city treasurer, police chief, fire chief, director of administrative services, director of development services, director of finance, and director of public services are employed on an at-will basis. Employment at-will may be terminated without cause, without notice and without right to appeal at any time by the employee or the city. No personnel employed in the positions set forth in this subdivision (a) of section 2-224.5 has any authority to enter into an agreement for employment for any specified period of time or to make an agreement for employment on other than at-will terms, except an agreement expressly approved by the city council. Only the city council for the City of Costa Mesa has the authority to make any such agreement, which is binding only if it is in writing.
- (b) The city council is the appointing authority for the city manager, city attorney, and the city treasurer.
- (c) The city manager is the appointing authority for the assistant city manager, police chief, fire chief, director of administrative services, director of development services, director of finance, and director of public services.

Section 4. Section 2-305 of the Costa Mesa Municipal Code is hereby amended to read as follows:

“All applications for appeals, rehearings, and reviews must be filed, in writing, during regular business hours of 8:00 a.m. - 5:00 p.m., Monday through Friday, except holidays, and within the time limits hereinafter set forth:

- (1) For all matters relating to the approval, disapproval or extension of tentative and parcel maps, within ten (10) days from the date of the final decision subject to appeal, rehearing or review.
- (2) For all other items, within seven (7) days from the date of the final decision subject to appeal, rehearing or review.
- (3) For all matters requiring approval by the city, its employees, committees, commissions or council and by the redevelopment agency, the time limits for all applications shall begin on the date of the later of the following:
 - (a) Final decision by the city, its employees, committees, commissions or council; or
 - (b) Final decision by the redevelopment agency.

If the final day for filing an application for appeal, rehearing or review falls on a holiday or weekend day when City Hall is closed, the application shall be filed no later than the next business day.

Section 5. Section 2-309 of the Costa Mesa Municipal Code is hereby amended to read as follows :

The person or body to hear an appeal shall be the following:

- (1) From a decision of the city staff to the department head; except that an appeal from a decision of the transportation services engineer regarding traffic matters pursuant to Title 10 of this Code, shall be made to the planning commission;
- (2) From a decision of the department head to the city manager; except that (a) an appeal from a decision of the development services director on planning matters pursuant to Title 13 of this Code shall be made to the planning commission, and (b) an appeal from a decision

of the building official on building matters pursuant to Title 5 of this Code shall be to the access, building, fire and housing board of appeals as required by section 5-3 of this Code;

- (3) From a decision of the city manager to the city council;
- (4) From a decision of any city committee or commission to city council.

Section 6. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect thirty (30) days after its final passage.

PASSED AND ADOPTED this ____ day of _____, 2005.

Mayor

ATTEST:

APPROVED AS TO FORM:

Deputy City Clerk of the
City of Costa Mesa

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, Julie Folcik, Deputy City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 05-__ was introduced and considered section by section at a regular meeting of said City Council held on the 5th day of April, 2005, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2005, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2005.

Deputy City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa