

CHARTER OF THE CITY OF PORTLAND, OREGON

CHAPTER 4

CIVIL SERVICE

ARTICLE 1. MERIT PRINCIPLE.

All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other objective evidence of competence. Such appointments and promotions shall provide fair and equal opportunity without regard to race, religion, gender, marital and family status, national origin, age, mental or physical disability, sexual orientation, gender identity, source of income, and such other criteria as determined by the City Council by ordinance. The goal of the merit system is a workforce that reflects the aspirations and values of the City it serves.

ARTICLE 2. MERIT SYSTEM.

Consistent with all applicable federal and state laws, the City Council shall provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies and rules necessary for effective administration of the employees of the City's offices, bureaus, and agencies, including but not limited to classification and pay plans, recruitment, examinations, disciplinary actions, types of appointments, relationships with employee organizations, and appeals and hearings. Such ordinances shall be consistent with the merit principles in Article 1.

ARTICLE 3. CLASSIFIED SERVICE.

The classified service in the City shall consist of all positions in the government of the City except all officers chosen by popular election or by appointment by the City Council, all administrative staff of each City Council member, the Chief Deputy City Auditor, the deputies of the City Attorney, members of all boards and commissions, and all bureau directors hired after December 31, 2000. In addition, at the recommendation of the person responsible for administration of personnel issues, and with approval of Council by ordinance, employees may be excluded from classified service if they are in a classification with a major role in the formulation of policy that requires the exercise of independent judgment and are hired after the effective date of such ordinance.

The Mayor shall appoint and may remove the Chief of Police.

ARTICLE 4. CIVIL SERVICE BOARD.

There shall be a Civil Service Board consisting of three members appointed by the Mayor and confirmed by Council. The appointments shall ensure that the perspectives of labor, management and the general public are reflected. Members of the board shall act impartially. The Mayor may remove any Civil Service Commissioner at any time and

shall within five days of the removal notify Council of the reasons for dismissal. The term of office of each member of the Board shall be 3 years with the term of one Board member expiring every year. Board members may be reappointed for up to two additional terms. Each member of the board shall be a resident of the City.

Section 4-401. The Duties of the Board. The Board shall:

1. Review classification actions alleged by employees in the classified service to have been made without rational basis, contrary to law or rule or taken for political reason(s) and as necessary, remand back to the person responsible for the administration of personnel issues for further review and action.
2. Review suspension, demotion or discharge of permanent employees in the classified service when employees allege discipline was not for cause. If an employee's allegations are found to be correct, reinstatement may be ordered under terms and conditions as may be deemed appropriate by the Board.
3. Review appeals of candidates for appointment or promotion to positions within the classified service when applicants allege that rules promulgated under this Chapter were not followed, were contrary to law or made for political reasons. If the Board finds an allegation to be correct, it shall order such actions necessary to fulfill the purpose and principles of this Chapter.
4. An appeal to Board of any of the actions listed in this subsection must be filed with the Board, in writing, within 21 days of the action or decision being appealed.
5. On at least an annual basis, the Board shall review any administrative rules and policies being considered or adopted by City Council or other City officials concerning the duties of the Board as listed in this section, and provide input to City Council and the person responsible for the administration of personnel issues.
6. The Board shall meet at least quarterly and shall report annually to City Council on its activities for the prior year.

Section 4-402. Judicial Review. The final decision of the Board or any appeal to the Board shall be subject to review by a court of competent jurisdiction in the manner provided by statute for review of quasi-judicial decisions of lower tribunals.

ARTICLE 5. RIGHT TO BARGAIN COLLECTIVELY.

The right of City employees to bargain collectively, through representatives of their own choosing, shall not be abrogated by the City, provided that no provision of a collective bargaining agreement shall abrogate the provisions of this Charter.

ARTICLE 6. EFFECTIVE DATE AND RULES.

These amendments shall take effect on January 1, 2008. All Civil Service Rules and Human Resources Administrative Rules in effect on the effective date of this Chapter 4 will remain in force until such rules are changed by the appropriate official or officials.

~~ARTICLE 1. PRINCIPLES AND OPERATION.~~

~~**Section 4-101. Scope of the Merit System.** All appointments to and promotions in the subordinate administrative service of the City shall be made solely according to fitness, which shall be ascertained by open competitive examination, and merit and fidelity in service, as provided for in this Chapter. The provisions of this Chapter shall apply to the incumbents of all offices, places and employments in the public service of the City except the following: all officers chosen by popular election or by appointment by the Council, the members of all boards and commissions, the deputies of the City Attorney, the City Engineer, the Superintendent and Chief Engineer of the Bureau of Water Works, the Secretary of the Civil Service Board and of the Auditor, the Chief Deputy City Auditor, the secretary and administrative staff of each Council member, the Chief of Police, and all bureau directors hired after December 31, 2000. The Mayor shall appoint a Chief of Police, who shall have had ten (10) years of active police service. The Chief of Police shall be subject to removal by the Mayor.~~

~~**Section 4-102. Policy and Purpose.** It is the purpose of this Chapter to establish for the City a system of personnel administration which:~~

- ~~1. Provides all citizens with a fair and equal opportunity for public service;~~
- ~~2. Establishes conditions of service which will attract and retain officers and employees of good character, technical knowledge, skill and ability;~~
- ~~3. Improves the efficiency and economy of the agencies of City service by the improvement of methods of personnel administration.~~

~~**Section 4-103. Definitions.** As used in this Chapter, unless the context clearly requires otherwise:~~

- ~~1. "Appointing authority" means the Commissioner In Charge of a Bureau and the City Auditor.~~

- ~~2. "Class" or "classification" means a group of positions in the City classified service sufficiently alike in duties, authority, and responsibility that the same qualification may reasonably be required for, and the same schedule of pay can be equitably applied to, all position sin the group.~~
- ~~3. "Board" means the Civil Service Board.~~
- ~~4. "Department" means the Bureau of Personnel Services.~~
- ~~5. "Director" means the Director of the Bureau of Personnel Services.~~
- ~~6. "Permanent employee" means an employee who has been appointed to a position in the classified service in accordance with this Chapter after completing the probationary period which applies.~~

~~**Section 4-104. Civil Service Board.** The Civil Service Board shall consist of three (3) Commissioners. Within thirty (30) days after the taking effect of this Charter, the Mayor shall appoint, as such Commissioners, three (3) persons, known to the Mayor to be devoted to the principles of civil service reform, one of whom shall serve for two (2) years, one for four (4) years and one for six (6) years; and between the first and tenth days of July in 1905 and each second year thereafter, the Mayor shall, in like manner, appoint one person, as the successor of the Commissioner whose term of office expires in that year, to serve as such Commissioner for six (6) years. The Mayor may remove any Commissioner at any time. In the event of any such removal, the Mayor shall, within five (5) days thereafter, transmit to the Council a written report thereof and of the Mayor's reason therefor, and the Council shall forthwith appoint another person to fill the vacancy. Vacancies arising from any other cause shall be filled by appointment by the Mayor. All appointments to fill vacancies shall be for the unexpired term. No person shall be appointed as a Commissioner unless that person is a resident of the City.~~

~~**Section 4-105. Offices and Equipment of the Civil Service Board.** The Council shall furnish the Board with suitable offices, books and stationery, and through the Department, provide administrative support and clerical assistance reasonably necessary for the Board to perform its duties under his Chapter.~~

~~**Section 4-106. Duties of the Board.** The duties of the Board shall be:~~

- ~~1. Reviewing any classification action taken by the Director affecting an employee in the classified service, where the employee alleges such action to be without a rational basis or contrary to law or rule or taken for political reasons. The Board shall set aside such action if it finds these allegations to be correct and remand the decision back to the Personnel Director for further review.~~

- ~~2. Review the suspension, demotion or discharge of permanent employees in the classified service, where the employee alleges the discipline was for a political or religious reason, or was not in good faith, for the purpose of improving the public service. If the Board finds these allegations to be correct, the Board may order the employee's reinstatement upon such terms or conditions as maybe imposed by the Board.~~
- ~~3. Review appeals by candidates for appointment or promotion to positions in the classified service, where the applicant for appointment or employee/candidate for promotion alleges that the director failed to follow rules promulgated by the Director under this Chapter for selecting candidates for appointment or promotion to classified positions. If the Board finds the allegation to be correct, the Board shall order such action as it deems necessary to fulfill the purposes and principles of this Chapter.~~

~~ARTICLE 2. CATEGORIES OF SERVICE.~~

~~Section 4-201. Classification, Minimum Qualifications for Each Class.~~

- ~~1. The Department, under the supervision of the Director, shall adopt a classification plan which shall group all positions in the classified service in classifications based on their duties, authority and responsibilities; and which shall set forth for each classification a class title, a statement of the minimum qualifications, duties and authority and responsibility thereof.~~
- ~~2. In adopting a classification system, the Department shall consult with the appointing authorities, bureau directors, managers and employees involved. In determining the appropriate class for a position the focus of the Department shall be limited to the duties and responsibilities assigned to the position, the knowledge and skills needed to perform the duties and the relationship of the position to other classes in the classification plan. The Director shall avoid the proliferation of "single person classifications."~~
- ~~3. The Director shall conduct a periodic review of the classification plan to ensure that all positions are allocated appropriately to classifications within the plan. The classification plant and amendments thereto shall be subject to the approval of the Council.~~

~~**Section 4-202. Reclassifications.** A reclassification is the reallocation of a position from one classification to another classification caused by substantial changes in the duties, authority and responsibility of the position. Reclassifications must be based on a finding that the duties and responsibilities of a position have been or shall be significantly enlarged, diminished or altered.~~

ARTICLE 3. APPOINTMENTS AND PROMOTIONS.**Section 4-301. Recruitment, Selection and Promotions; Criteria; Procedures; Duties of the Director.**

- ~~1. Recruiting, selecting and promoting employees shall be on the basis of relative ability, knowledge, experience and skills, determined by open competition and consideration of qualified applicants, without regard to race, color, religion, marital status or other non-job related factors except for City residence if residents are given preference pursuant to Section 2-611 of this Charter.~~
- ~~2. The Director shall establish procedures for recruitment and selection which shall include adequate public notice, affirmative action to seek out underutilized members of minority groups or women where they are underutilized, and job related testing.~~
- ~~3. Competition for specific positions may be limited to facilitate employment of those which a substantial physical or mental impairment or for purposes of implementing a specific affirmative action program.~~
- ~~4. Appointments to positions in the classified service shall be made on the basis of qualifications and merit by selection from eligible lists established by the Department. To fill a vacancy, the Department shall certify to the appointing authority the names of the five (5) eligible candidates standing highest upon the register for the classification. Scores may be handed where no statistically significant difference exists between candidate scores on an examination.~~
- ~~5. Non-competitive selection and appointment procedures maybe used for unskilled or semi-skilled positions, or where job related ranking measures are not practical or appropriate. Nothing in this Chapter shall prevent the director for adopting selection procedures which follow the principles of "apprenticeship and training" as an alternative to written tests. Where "apprenticeship and training" principles are utilized, minimum qualifications and performance requirements and duties of a classification may be appropriately modified to permit appointment and promotion to trainees to positions normally filled at full proficiency level.~~
- ~~6. The Department shall establish systems to provide opportunities for promotion through training, education and career development assignments in addition to the regular competitions by examination.~~

~~Section 4-302. Temporary Appointments.~~

- ~~1. Temporary appointments shall be used for the purpose of meeting emergency, non-recurring and short-term workload needs of the City. However, such appointments do not carry with them "status" in the classification and are outside the classified service, and they shall not be used to defeat the open competition and objective selection procedures established by the Director.~~
- ~~2. Temporary appointments may be made by the appointing authority in the absence and pending the preparation of an appropriate eligible list from which appointments can be made, in emergencies to prevent delay or injury to the public service, to meet a non-recurring or short-term workload need, or when the position is authorized for a seasonal period not to exceed five (5) months in duration.~~
- ~~3. Each bureau shall report its use of temporary employment to the Director each fiscal year, including the duration and reason for use or extensions, if any. The Director shall report such use to the City Council.~~

ARTICLE 4. RULES AND REGULATIONS.**~~Section 4-401. Procedures.~~**

- ~~1. The Director shall make rules to carry out the propose and provisions of this Chapter.~~
- ~~2. Prior to the adoption, amendment or repeal of any rule by the Director, the Director shall give public notice of the proposed action at least fifteen (15) days prior to the effective date by mailing the notice to each Council member, all Bureau Directors, and every labor organization representing City employees pursuant to ORS Chapter 243. Any person interested in such rules may attend a hearing schedules by the Director and give evidence or testimony, or may present such evidence in writing on or before a date established by the Director. After any hearing or after the date established by the Director for receipt of evidence if a hearing is not to be held, the proposed rules shall be submitted to the City Council for approval by resolution. The proposed rules shall then be adopted and filed with the Director.~~

ARTICLE 5. HEARING AND APPEALS.**~~Section 4-501. Demotion, Suspension and Termination.~~**

- ~~1. No employee holding a permanent position in the classified service shall be demoted, suspended or terminated, except for cause, a written statement of which shall be served upon said employee and a duplicate filed with the Director. Any employee so removed may, within ten (10) days from the action, file with the Director a written demand for a hearing before the Board. The demand must state the grounds for the appeal. The hearing before the Board shall be confined solely to determination of the question whether the decision was or was not for a political or religious reason, or was or was not made in good faith for the purpose of improving the public service. This provision shall not apply to any employee for whom there exists a grievance procedure unless a collective bargaining agreement expressly authorizes an appeal to the Board as the method or alternative method to obtain a review of the decision.~~
- ~~2. The Director shall submit to the Board proposed rules and regulations to carry out the purposes of this Section. The provisions of Article I, pertaining to notice and adoption of rules by the City Council, shall apply to adoption of rules by the Board pursuant to this Section.~~

~~Section 4-502. Classification Actions; Appeals.~~

- ~~1. Before requesting the reclassification of any position, proposing a new classification, or proposing that a classification be abolished, the bureau head shall give written notice of the request or proposal to the Director who shall give written notice to the employee(s) affected, if any, and to each labor organization representing City employees in the classified service. The requirement of written notice shall also apply to a classification action that the Director initiates.~~
- ~~2. Any employee adversely affected by a change in classification, or whose request was denied, and any appointment authority who disagrees with the classification determination, may file with the Director, a written request for reconsideration thereof, and must be given a reasonable opportunity to be heard thereon by the Director.~~

- ~~3. Any employee or appointing authority who is aggrieved by the Director's decision on an appeal under Subsection 2 above, may have that decision reviewed by the Board, if the employee or appointing authority submits a written request alleging that there is no rational basis to support the Personnel Director's decision, or that the decision is contrary to a provision of this Chapter, to law or to rule, or is for a political reason. The Director shall adopt rules to carry out the purposes of this Section pursuant to the rule-making authority provided by this Chapter.~~
- ~~4. Absent an appeal to the Director concerning a classification action, the action shall take effect upon approval by the City Council as a consent calendar item.~~

~~Section 4-503. Examination; Appeals.~~

- ~~1. Any person aggrieved by the Director's decision in the examination process for appointment or promotion to a position in the classified service must be given, at the candidate's written request, a reasonable opportunity to be heard thereon by the Director.~~
- ~~2. Any candidate for appointment or promotion aggrieved by the Director's decision on the appeal referred to by Subsection 1 above, is entitled to have that decision reviewed by the Board if the employee submits a written request to the Board for such review not later than fifteen (15) days after the Director's decision. The request must allege that the decision by the Director was contrary to rules promulgated for examinations, or that the decision was contrary to law or for a political reason.~~

~~ARTICLE 6. JUDICIAL REVIEW.~~

~~Section 4-601. Appeals.~~ The final decision of the Board or any appeal to the Board shall be subject to review by the Circuit Court in the manner provided by statute for review of quasi-judicial decisions of lower tribunals.

~~ARTICLE 7. EFFECTIVE DATE.~~

~~Section 4-701. Effectiveness.~~ This Chapter shall become effective on July 1, 1987.