

ORDINANCE NO. 1405

An Ordinance Providing a System of Civil Service for Paid Firefighters,
of the City of Albany, Oregon.

THE PEOPLE OF THE CITY OF ALBANY, OREGON DO ORDAIN AS FOLLOWS:

Section 1. Civil Service Adopted - Pursuant to Chapter 122 of Oregon Laws, 1935, and a Special Election held thereunder in the City of Albany on the 31st day of January, 1938, there is hereby created and adopted a system of civil service for said city under which all full time paid fire fighters shall be employed in said city, together with all necessary provisions for the operation of said system.

Section 2. Commission-Appointment-Term of Office-Vacancy-There is hereby created a civil service commission which shall be composed of three persons. Said members of said commission shall be appointed by the common council and shall serve without compensation. The term of office of each commissioner shall be six years, except that the term of office of any commissioner appointed to fill a vacancy in such office shall be for the unexpired term of the office wherein such vacancy occurs, and further except that in determining the terms of office of the first three commissioners herein appointed, one commissioner shall be appointed for the term of office expiring on the first day of January, 1938, one commissioner for the term expiring on the first day of January, 1940, and one Commissioner for the term of office expiring on the first day of January, 1942.

Section 3. Commission-Qualification and Removal-No person shall be appointed or qualified as a member of said commission who is not a citizen of the United States of America, a resident of the city for at least three years immediately preceding such appointment and an elector of Linn County. The common council may by resolution remove any member of said commission from office for incompetency, incompatability, dereliction of duty, or malfeasance in office, or other good cause, after giving to said commissioner a copy of the charges against him and an opportunity to be heard in person or by council upon not less than ten days notice.

Section 4. Commission-Organization-Meetings-Quorum- Immediately after its appointment the civil service commission shall organize by electing one of its members as chairman. It shall hold such meetings as may be necessary for the proper discharge of its duties, which meetings shall be held after due notice to all members, upon call of the chairman or two members of the commission. Two members of the commission shall constitute a quorum, and the votes of two members shall be sufficient for the decision of all matters and the transaction of all business required under the provisions of this ordinance or the rules of said commission.

Section 5. Commission-Duties- It shall be the duty of the civil service commission:

- (a) To devote due time and attention to the discharge of the duties imposed upon it by the provisions of this ordinance,
- (b) To make suitable rules and regulations not inconsistent with the provisions of this ordinance, which shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges shall be made, and it may also provide for any other matters connected with the general subject of personal administration, and which may be considered desirable to further carry out the general purposes of this ordinance, or which may be found to be in the interest of good personnel administration.

Such rules and regulations may be changed from time to time. They may be printed, mimeographed or multigraphed for free distribution.

- (c) The commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this ordinance, and the rules and regulations prescribed thereunder, inspect all institutions and departments, offices, places, positions and employments affected by this ordinance, and ascertain whether this ordinance and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated for that purpose. The commission shall make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting out in concise language in writing the necessity for such investigation. In the course of such investigation the commission or designated commissioner shall have the power to administer oaths, subpoena and require the attendance of witnesses, and the production by them of books, papers, documents and accounts appertaining to the investigation, and to cause depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for such depositions in civil suits of the United States; and the oaths administered hereunder shall have the same force and effect as the

ORDINANCE NO. 1405

oaths administered by the circuit judge in his judicial capacity; and the failure to comply with the provisions of this ordinance shall be deemed a violation of the ordinance and punishable as such.

- (d) All hearings and investigations before the commission, or designated commissioner, shall be governed by this ordinance and the rules of practice and procedure to be adopted by the commission, and in the conduct thereof, neither the commission or designated commissioner shall be bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission; provided however, that no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever, unless and until concurred in by at least one other member of the commission.
- (e) To hear and determine complaints respecting the administration of personnel, allocation of positions, examination rejections, and all other matters referred to the commission.
- (f) To establish and maintain in card index or other suitable form a roster of officers and employees of the fire department.
- (g) To provide for, formulate and hold competitive tests, or to constitute and appoint suitable agencies therefor, for the purpose of determining the relative qualifications of persons who seek employment in any classified position under civil service and to establish thereby eligible lists for the various classified positions. To provide that men laid off because of curtailment of expenditures, reduction in force, and for like causes shall be the last man or men, including probationers, that have been appointed to said fire department. Such removal shall be accomplished by suspending in numerical order, commencing with the last men appointed to the fire department, all recent appointees to said fire department, until such reductions necessary shall have been accomplished; provided further, that in the event the said fire department shall again be increased in numbers the said firemen suspended under the terms of this act shall be reinstated before any new appointments to said fire department shall be made.
- (h) When a vacant position is to be filled, to certify to the appointing authority, on written request, the names of the three persons highest on the eligible list for the class. If there are no such lists, to authorize a provisional or temporary appointment list of such class. Such temporary or provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provisional appointment or serve more than four months as a provisional appointee in any one fiscal year.
- (I) To keep such records as may be necessary for the proper administration of this act.

Section 6. Secretary- The City Recorder is hereby designated and appointed as secretary to said commission. It shall be his duty to attend all meetings of said commission, to keep a record of its proceedings, to preserve all reports made to it and all applications filed with him as such secretary, and to perform such other duties as the commission may prescribe.

Section 7. Those subject to Civil Service- The civil service herein created shall apply to and be a classified service of all positions now existing or hereafter created in the full paid fire department including that of fire chief. All present incumbents and all future appointees shall be subject to civil service. All appointments to and promotions in such department shall be made solely on merit, efficiency, and fitness, which shall be ascertained by open competitive examination and impartial investigation. No person shall be suspended, discharged, reinstated or transferred from any such place, position or employment contrary to the provisions of this ordinance.

Section 8. Adoption and Induction of Incumbents into Civil Service- For the benefit of the public service and to prevent delay, injury, or interruption thereof by reason of the enactment of this act, all persons holding a position in the fire department, including the chief thereof, when this takes effect, who shall have served continuously in such position for a period of at least six months immediately prior thereto are hereby declared eligible for permanent appointment under civil service to the offices, places, positions or employments which they shall then hold, respectively, without examination or other act on their part, and not on probation; and every such person is hereby automatically adopted and inducted permanently into civil service, into such office, place, position or employment which such person then holds as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation.

ORDINANCE NO. 1405

Section 9. Residence.- Whenever any person shall be appointed to any position in the classified paid fire fighters civil service of the city he shall be or become and continue to be a resident within the city limits of the city, from the date of said appointment.

Section 10. Tenure of office of Civil Service Employees and Causes and Manner of Discharge.- The tenure of every person holding an office, place, position or employment in the clasified civil service provided by this ordinance shall be determined in compliance and conformity with the terms and conditions of this section. No person employed as a fire figater under such classified service shall be removed or discharged, suspended or demoted or reduced in rank for any political or religious reason or purpose. Any such paid fire fighter under any such classified civil service may be removed or discharged, suspended without pay, demoted or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

- (a) Incompetency, inefficiency or inattention to or dereliction of duty;
- (b) Dishonesty, immoral, disgraceful or prejudicial conduct, insubordination, discourteous treatment of the public, or a fellow employe, or any other act of omission or commission tending to injure the public service; or any other wilful failure on the part of the employe to properly conduct himself; or any wilful violation of the provisions of this ordinance or the rules and regulations to be adopted hereunder;
- (c) Drunkenness, intemperance, or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employe, or which precludes the employe from properly performing the functions and duties of any position under civil service;
- (d) Mental or physical unfitness for the position which the employe holds;
- (e) Conviction of felony, or a misdemeanor, involving moral turpitude;
- (f) Any other act or failure to act which in the judgment of the civil service commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

Section 11. Removal.- No person in the classified civil service who shall have been permanently appointed or inducted into civil service under provision of this act, shall be removed, suspended, demoted or discharged except for a cause, and only upon the written accusation of the appointing power, or any citizen or taxpayer, a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. The chief of the fire department may suspend a member pending the confirmation or rejection of the suspension by the regular appointing power under this ordinance, which must be within thirty days thereafter. Any person so removed, suspended, demoted or discharged may within ten days from the time of his removal, suspension, demotion or discharge, file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. All investigations made by the commission pursuant to the provisions of this section shall be by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made for political or religious reasons and was or was not made in good faith for cause. After such investigation the commission may affirm the removal, or if it shall find that the removal, suspension, or demotion was made for political or religious reasons or was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The commission upon such investigation, in lieu of affirming the removal, suspension, demotion or discharge may modify the order of removal, suspension, demotion or discharge by directing a suspension, without pay, for a given period, and subsequent restoration of duty, or demotion in classification, grade, or pay; the findings of the commission shall be certified, in writing to and shall be forthwith enforced by the appointing power.

Section 12. Duties of All Officers and Employes to Assist the Commission.- It shall be the duty of all officers and employes of any such city to aid in all proper ways of carrying out the provisions of this act, and such rules and regulations as may, from time to time, be prescribed by the commission thereunder and to afford this commission, its members and employes, all reasonable facilities and assistance to inspect all books, papers, documents and accounts applying or in any way appertaining to any and all offices, places, positions

ORDINANCE NO. 1405.

and employments, subject to civil service, and also to produce said books, papers, documents and accounts, and attend and testify, whenever required so to do by the commission or any commissioner.

Section 13. Appointments to Vacant Positions; Certification from Lists. Whenever a position in the classified service becomes vacant, the appointing power, shall make requisition upon the commission for the name and address of a person eligible for appointment thereto. The commission shall certify the names of the three persons highest on the eligible list for the class to which the vacant position has been allocated, who is willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the names of the three persons standing highest on said list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint one such person to each such vacant position.

Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the commission shall forthwith certify the names of three persons eligible for appointment to the appointing power, and said appointing power shall forthwith appoint one of the persons so certified to said position. No person so appointed shall be laid off, suspended, or given leave of absence from duty, transferred or reduced in pay or grade, except for reasons which will promote the good of the service, specified in writing, and after an opportunity to be heard by the commission and then only with its consent and approval.

No appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of nine months probationary service. During such probationary period the appointing power may at any time terminate the employment of any person certified to it, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems him unfit or unsatisfactory for service in the position to be filled. Whereupon the appointing power shall choose a person certified on the eligible list provided any such person shall likewise enter upon said duties, and selection shall proceed in such manner until some person is found who satisfactorily meets the tests and requirements of the probationary period provided therefore, whereupon the appointment, employment or promotion shall be deemed to be complete.

Section 14. Creation of Employment and Fixing of Compensation. All offices, places, positions and employments coming within the purview of this act, shall be created by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, chief, common council, commission, or otherwise, is or are vested by law and prior to the taking effect of this act, with power and authority to select, appoint, or employ any person coming within the purview of this act, and nothing herein contained shall infringe upon the power and authority of any such person or group of persons, or appointing power, to fix the salaries and compensation of all employes hereunder.

Section 15. Certification of Payrolls. No officer of the City of Albany shall approve the payment of or be in any manner concerned in paying, auditing or approving any salary, wage or other compensation for services, to any person subject to the jurisdiction and scope of this act, unless a payroll, estimate or account for such salary, wage or other compensation, containing the names of the persons to be paid, the amount to be paid to each person, the services on account of which same is paid, and any other information which, in the judgment of the civil service commission, should be furnished on such payroll, bears the certificate of the civil service commission or its secretary or other duly authorized agent, that the persons named in such payroll, estimate or account have been appointed or employed in compliance with the terms of this act and with the rules of the commission, and that the said payroll, estimate or account is, so far as known to the said commission, a true and accurate statement. The commission shall refuse to certify the pay of any public officer or employe whom it finds to be illegally or improperly appointed, and may further refuse to certify the pay of any public officer or employe who shall wilfully or through culpable negligence violate or fail to comply with this act or with the rules of the commission.

Section 16. Leave of Absence. Leave of Absence with or without pay may be granted by the Council to any person under civil service; provided, that the Recorder shall give notice of such leave to the Commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified service. Provided that before any leave of absence be granted, the employe granted such leave shall have been in the service of the fire department for at least one year, and no leave of absence for more than six months shall be granted and no extension of leave of absence shall be granted for more than thirty days and not more than one leave of absence shall be granted to any employe in the civil service more than once in any two year period.

ORDINANCE NO. 1405

Section 17. Civil Suits- It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this act and of the rules of the commission. The commission shall be represented in such suits by the chief legal officer of the city, but said commission may in any case be represented by special council to be appointed by it after first obtaining authorization as to appointment and compensation therefor from the common council.

Section 18. False Marking, Grading, Etc. Prohibited- No commissioner or any other person, shall by himself or in cooperation with one or more persons defeat, deceive, or obstruct any person in respect of his right of examination or registration according to the rules and regulations provided by this ordinance or the rules of the civil service commission thereunder, or falsely mark, grade, estimate or report upon the examination of proper standing of any person examined, registered or certified pursuant to the provisions of this ordinance and said rules and regulations, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special information for the purpose of improving or injuring the prospects or chances of any person so examined, registered, or certified or persuade any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration or application or request to be examined or registered.

Section 19. Political Services Disregarded and Prohibited- No person holding any office, place, position or employment subject to civil service, is under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote or in any manner change the official rank, employment or compensation of any person under civil service, or promise or threaten to do so, for giving or withholding, or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose.

Section 20. Definition of terms- As used in this act, the following mentioned terms shall have the following described meanings;

The term "commission" means the civil service commission herein created, and the term "Commissioner" means any one of the three commissioners of that commission.

The term "appointing power" includes every person or group of persons who, acting singly or in conjunction, as a mayor, council, commission, or otherwise, is or are, vested by law with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

Section 21. Constitutionality of Ordinance- If any section, subsection, subdivision, sentence, clause or phrase of this act, shall for any reason be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 22. Repeal of Conflicting Ordinances- All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict with the provisions of this ordinance.

Section 23. Violation of This Ordinance a Misdemeanor, Penalty- Any person who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof in the Recorder's Court shall be punished by a fine of not less than \$5.00 nor more than \$100.00 and upon default in the payment of said fine or any part thereof shall be imprisoned in the city jail for a period determined at the rate of one day for each two dollars of said fine unpaid.

Section 24. This Ordinance shall be and become effective from and after October 1, 1936.

Passed by the Council this 12th. day of August, 1936.

Approved by the Mayor this 15th. day of August, 1936. W.L. Jackson, Mayor.

Attest: F.E. Van Tassel, Recorder.

State of Oregon,
County of Linn.

ss. I, F.E. Van Tassel, Recorder of the City of Albany, Linn County, Oregon, hereby certify that the annexed and foregoing copy of Ordinance No. 1405 has been by me carefully compared with the original Ordinance Bill No. 1516, on file in my office, and that it is a true and correct copy of all of said bill, passed by the Council August 12, 1936, and approved by the Mayor August 15, 1936.

Witness my hand and official signature and the seal of the City of Albany, this 20th. day of August, 1936.

F. E. Van Tassel
Recorder of the City of Albany.