

ORDINANCE NO. _____

Item 024
Changes initiated by
CM Mike Martinez
Agenda 06/26/2012

AN ORDINANCE ADOPTING THE MUNICIPAL CIVIL SERVICE RULES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The Council makes the following findings:

- (A) In November 2012, the residents of the City of Austin approved Proposition 10 which established a Municipal Civil Service System; and
- (B) As a result, Article IX of the Austin City Charter was amended to include a Classified Municipal Civil Service system with a Municipal Civil Service Commission and Municipal Civil Service Rules;
- (C) In Compliance with the City Charter, the Human Resources Director recommended Rules to the Municipal Civil Service Commission in November 2013.
- (D) The Municipal Civil Service Commission met fourteen (14) times to deliberate the Human Resources Director recommended Rules and to hear Citizen Comment, including receiving comment from stakeholders during the Public Hearing required by the City Charter.
- (E) The Municipal Civil Service Commission modified the Rules recommended by the Human Resources Director.
- (F) On May 6, 2014, with a unanimous vote of the five Commissioners, the modified Municipal Civil Service Rules were approved by the Commission and recommended to the City Council for adoption.

PART 2. The Council adopts the modified Municipal Civil Service Rules recommended by the Commission in the form attached as Exhibit "A," with the following amendments:

(A) Section 4.05 is amended to read:

As part of Merit and Fitness, the Department may require job-related criteria, such as background checks, drug and alcohol testing, and employment reference checks on any Selection or Direct Appointment. Drug and alcohol testing and criminal background investigations will be conducted when required by City policy, ~~procedure~~, state, and/or federal law.

1 (B) Section 5.01 is amended to read:

2
3 A Reduction-in-Force is the elimination of a Position or job function in a
4 Department due to lack of work, shortage or loss of funding, including
5 external funding, or other reasons of business necessity that results in the
6 involuntary separation of at least one (1) Employee in that Department. of
7 Employees may occur when it becomes necessary for the City to effect
8 immediate reductions in the size of the City workforce.

9 (C) Section 5.02 is eliminated.

10 ~~The Human Resources Department shall develop procedures for Department~~
11 ~~Heads to follow to accomplish a Reduction in Force due to lack of work,~~
12 ~~shortage or loss of funding, or other reasons of business necessity that result~~
13 ~~in the involuntary separation of at least one (1) Employee in the Department.~~
14

15 (D) Section 5.03C (2) is amended to read:

16 Second, all other Employees shall be separated based on length of service
17 with the City as the first criterion and documented past work performance as
18 the second criterion. The Employee last hired by the City without a break in
19 service shall be separated first. If there is a tie in length of service, it shall
20 be broken by ranking affected Employees according to documented
21 performance appraisals for the previous twelve (12) months. If the
22 documented past performance is equal, the Human Resources Director shall
23 select by lot the Employee who will be separated. ~~assessment of the~~
24 ~~Employees' documented past work performance and length of service with~~
25 ~~the City beginning with the Employee last hired by the City without a break~~
26 ~~in service. When these factors are equal in the judgment of management, the~~
27 ~~Employee last hired by the City without a break in service shall be separated~~
28 ~~first.~~

29 (E) Section 5.03D is amended to read:

30 Whenever possible, with the exception of Employees funded through
31 external sources, Employees will be provided sixty (60) Days' notice of a
32 separation due to Reduction-in-Force. A Reduction-in-Force notice may be
33 provided to the affected Employee by personal delivery or, if the affected
34 Employee is not present in the workplace, via certified mail or electronic
35 mail when possible, to the address shown for the Employee in the City's
36 personnel records. Upon recommendation of the Director of Human
37 Resources, the City Manager may provide up to twelve weeks of severance

1 pay to an Employee who has been laid off.

2
3 (F) Section 5.04C (1) is amended to read:

4 An affected Employee shall be placed on a ~~Department~~ Citywide
5 reemployment list for a period of one (1) Year following the effective date
6 of the layoff. The recall list shall be used to fill a vacant Position with the
7 same Classification ~~in the same Department~~ from which the Employee was
8 laid off. The last Employee laid off shall be the first Employee recalled and
9 shall continue in that order. Nothing herein shall be construed as a guarantee
10 of reemployment.

11 *SD long as the employee meets the minimum qualifications*

12 (G) Section 6.02B (4)(g) is eliminated:

13 ~~conduct that results in conviction (including deferred adjudication or a plea~~
14 ~~of no contest) of a crime that renders the Employee unsuitable for the~~
15 ~~Position held by the Employee; or~~

16 (H) Section 6.02B (6) is amended to read:

17 **Ineligibility** – failure to maintain a license, certification, other qualification
18 or job-related criteria, including failure to pass a criminal background
19 investigation due to a relevant conviction, that results in the inability to
20 perform an essential job function required for the Position held by the
21 Employee.

22 (I) Section 6.02B (8) is amended to read:

23 **Unsafe Behavior** – intentional or repeated failure to follow established
24 workplace safety rules, standards, and guidelines.

25 (J) Section 6.02B (10) is amended to read

26 **Rules Policy Violation** – violation of ~~applicable City work rules or~~
27 ~~Department work rules, including City personnel policies, procedures and~~
28 ~~administrative bulletins.~~

29 (K) 6.03B (3) is amended to read:

30 the manner in which similar conduct has been addressed in the past by the
31 City Department;

32 (L) Section 6.03D(1)(a) is amended to read:

1 Employee Representation

2 1. When an Employee May Bring a Representative

3 a) An Employee may bring a representative of his/her choice to the
4 following types of meetings: a pre-disciplinary meeting, a meeting formally
5 requested by management at which discipline will be issued, a performance
6 improvement plan (PIP) issuance meeting, and an Investigatory Interview at
7 which the Employee is a complainant, witness, or Respondent (hereinafter
8 referred to collectively as "meetings").

9
10 (M) Section 7.06H (3) is amended to read:

11 The Commission shall permit the parties to make an opening statement
12 concerning the Appeal. The party with the burden of proof shall go first.

13 (N) Section 7.06H (6) is amended to read:

14 The Commission shall permit the parties to make a closing statement. The
15 order of the party's closing statement will be the same as the order of the
16 opening statement.

17 (O) Section 7.08C is amended to read:

18 The Department shall have the burden of proof and will present its evidence
19 first in the hearing, ~~and may make the final closing statement to the~~
20 ~~Commission.~~

21 (P) Section 7.09C is amended to read:

22 The Employee shall have the burden of proof and will present his/her
23 evidence first at the hearing, ~~and may make the final closing statement to the~~
24 ~~Commission.~~

25
26 (Q) Section 7.10B is amended to read:

27 The Department shall have the burden of proof and will present its evidence
28 first at the hearing, ~~and may make the final closing statement to the~~
29 ~~Commission.~~

1 **PART 3.** This ordinance takes effect on ~~October 27, 2014~~ July 7, 2014. 2 3]

4 **PASSED AND APPROVED**

5
6
7
8 _____, 2014

§
§
§

Lee Leffingwell
Mayor

9
10
11
12
13 **APPROVED:** _____
14 Karen M. Kennard
15 City Attorney
16
17

18
ATTEST: _____
Jannette S. Goodall
City Clerk