

ORDINANCE NO. 20140626-024

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. Criminal background investigations may also be conducted by procedures for Employees who are in Positions directly working with or in frequent contact

with vulnerable populations, and Positions with financial responsibilities to include: Employees in accounting and financial positions, cash handling, check signing authority, Pro Card users, grant fund oversight and distribution of funds to community groups, timekeepers, Employees with privileged system approval access, and Employees who regularly access a customer billing system or AMANDA in alignment with essential job functions.

(B) Section 5.01 is amended to read:

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

(C) Section 5.02 is eliminated.

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

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

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

(E) Section 5.03D is amended to read:

Whenever possible, with the exception of Employees funded through external sources, Employees will be provided sixty (60) Days' notice of a

separation due to Reduction-in-Force. A Reduction-in-Force notice may be provided to the affected Employee by personal delivery or, if the affected Employee is not present in the workplace, via certified mail or electronic mail when possible, to the address shown for the Employee in the City's personnel records. Upon recommendation of the Director of Human Resources, the City Manager may provide up to twelve weeks of severance pay to an Employee who has been laid off.

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

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

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

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

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

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

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

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

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

Rules-Policy Violation – violation of ~~applicable City work rules or Department work rules, including City personnel policies, procedures and administrative bulletins,~~ written work rules and procedures aligned to personnel policies, and administrative bulletins distributed to and acknowledged by the Employee.

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

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

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

Employee Representation

1. When an Employee May Bring a Representative

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

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

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

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

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

(O) Section 7.08C is amended to read:

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

(P) Section 7.09C is amended to read:

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

(Q) Section 7.10B is amended to read:

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

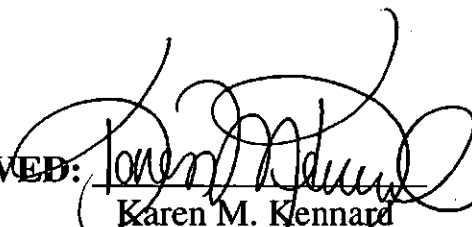
PART 3. This ordinance takes effect as follows:

- (A) Rule 7 of the modified Municipal Civil Service Rules recommended by the Commission in the form attached as Exhibit "A," with the amendments set forth in Part 2, takes effect on July 7, 2014.
- (B) The remainder of this ordinance takes effect on October 27, 2014.

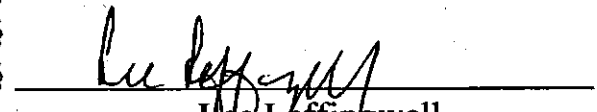
PASSED AND APPROVED

_____, June 26, 2014

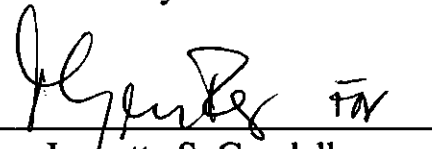
APPROVED:


Karen M. Kennard
City Attorney

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Lee Leffingwell
Mayor

ATTEST:


Janhette S. Goodall
City Clerk