

ORDINANCE NO. 425-R
OF
THE PORT OF PORTLAND

An ordinance amending and restating Port Ordinance No. 275, as amended by Port Ordinance No. 300, that established a Civil Service System for fire fighters and created a Civil Service Commission.

BE IT ENACTED BY THE PORT OF PORTLAND, as follows:

1. DEFINITIONS

As used in this Ordinance, unless the context clearly requires otherwise, the following terms shall mean:

- 1.1** "AIRPORT" - Portland International Airport; also referred to as PDX.
- 1.2** "AIRPORT SECURITY PROGRAM" - The Airport security program required by 49 CFR 1542 and approved by the Transportation Security Administration.
- 1.3** "APPOINTMENT" – Selecting or employing any person to hold a position subject to the Civil Service System created under this Ordinance.
- 1.4** "CERTIFIED" – An employee or candidate who is on an active register pursuant to Section 19.2 of this Ordinance.
- 1.5** "CHIEF EXAMINER" – An individual appointed by the Civil Service Commission to design, supervise and conduct the competitive selection process prescribed by this Ordinance.
- 1.6** "CIVIL SERVICE" – The Civil Service System established under Port Ordinance No. 275.
- 1.7** "CIVIL SERVICE COMMISSION" – The three-member Civil Service Commission created under Port Ordinance No. 275.
- 1.8** "CIVIL SERVICE SECRETARY" – An individual appointed by the Civil Service Commission to keep records of the Commission's proceedings.
- 1.9** "CIVIL SERVICE REGISTER" – A list of eligible candidates for promotional positions and entry-level positions that have been certified by the Civil Service Commission.
- 1.10** "COMMISSION CHAIRPERSON" – Chair of the three-member Civil Service Commission.
- 1.11** "COMMISSIONER" – A member of the Civil Service Commission.

1.12 "DIRECTOR OF AVIATION" - The Port's designated Director who oversees Airport operations and who reports directly to the Port's Executive Director.

1.13 "EMPLOYEE" – A person in a position covered under the Civil Service System and whose principal duties consist of preventing or combating fire, or preventing the loss of life or property from fire, and providing medical services in connection with employment in the Port of Portland Fire Department.

1.14 "EXECUTIVE DIRECTOR" – Person appointed by Port of Portland Commission to carry out the responsibilities of the chief executive officer of the Port of Portland, or his/her designee.

1.15 "FIRE CHIEF" - The highest-ranking manager within the Fire Department, or his/her designee. May also refer to a Fire Department Manager, or his/her designee, if the position is filled with a civilian manager.

1.16 "PORT COMMISSION" - The Board of Commissioners of the Port of Portland.

1.17 "PORT OF PORTLAND" or "PORT" –The port district of the State of Oregon that owns and operates the Airport pursuant to ORS 778.005 through ORS 778.990.

2. CIVIL SERVICE SYSTEM

2.1 The Civil Service System is for Employees of the Fire Department of the Port, excluding Fire Chief. As stated in Section 1.13 an Employee is "A person in a position covered under the Civil Service System and whose principal duties consist of preventing or combating fire, or preventing the loss of life or property from fire, and providing medical services in connection with employment in the Port of Portland Fire Department."

2.2 Except as otherwise provided in this Ordinance, the Appointment and promotion of all persons to positions covered by the Civil Service shall be made solely upon merit, efficiency, and fitness, as specified by ORS 242.752.

3. CIVIL SERVICE COMMISSION

The Civil Service Commission is composed of three (3) members appointed by the Port and approved by the Port of Portland Commission. The term of office of each member of the Civil Service Commission shall be four (4) years, and each shall serve without compensation. However, of the members first appointed to the Civil Service Commission, one shall serve for a term of two (2) years, one shall serve for a term of three (3) years, and one shall serve for a term of (4) four years. No member of the Civil Service Commission shall be a member of the Port of Portland Commission or a current employee of the Port. The Port may remove any Civil Service Commissioner for incompetency, dereliction of duty, or other good cause, after giving him/her due notice in writing of the charges against him/her and an opportunity to be heard publicly on such charges before the Executive Director in accordance with procedure specified in ORS 242.710.

4. CIVIL SERVICE COMMISSION MEETINGS

4.1 The Civil Service Commission shall hold a meeting at least once every ninety (90) days at a time and place which it designates.

4.2 Special meetings shall be called upon the request of any Civil Service Commissioner or the Port. Any person subject to the Civil Service may request a special meeting of the Civil Service Commission by delivering to the Commission Chairperson a written request stating the basis of the request. Such request may be granted at the discretion of the Commission Chairperson upon a finding that sufficient cause is shown.

5. QUORUM AND VOTE

5.1 Two (2) members of the Civil Service Commission shall constitute a quorum.

5.2 The votes of any two (2) Civil Service Commissioners concurring shall be sufficient for decisions in all matters and transactions under this Ordinance.

6. COMMISSION CHAIRPERSON

The Civil Service Commission shall elect a Commission Chairperson from its membership at the Civil Service Commission meeting after July 1 each year to serve for a term of one (1) year.

7. CHIEF EXAMINER

7.1 The Civil Service Commission shall appoint a Chief Examiner to design, supervise, and conduct the competitive selection process prescribed by this Ordinance. The Chief Examiner shall have skill in the recruiting, testing and screening of applicants for employment. No Employee of the Fire Department of the Port is eligible to serve as Chief Examiner or as an examiner.

7.2 Any existing examiner of a governmental agency within the state may be designated as examiner and retained by the Civil Service Commission if he/she has skill in the recruiting, testing, and screening of applicants.

8. CIVIL SERVICE SECRETARY

The Civil Service Commission shall appoint a Civil Service Secretary who shall keep records of the Civil Service Commission's proceedings and investigations held or made under the directions of the Civil Service Commission. The Civil Service Secretary shall also preserve all reports made to it and perform such other duties as the Civil Service Commission may prescribe.

9. PORT OFFICIALS TO ASSIST COMMISSION

The Director of Aviation, and his/her designee(s), shall afford the Civil Service Commission reasonable facilities and assistance in inspecting books, papers, documents, and accounts relating to the positions subject to Civil Service and shall produce such books, papers, documents, and accounts and testify whenever required to do so by the Civil Service Commission under the terms of this Ordinance.

10. LEGAL ACTION AND COUNSEL

The Civil Service Commission may conduct any civil suit or action which may be necessary for the proper enforcement of this Ordinance and the rules of the Civil Service Commission. The Civil Service Commission shall be represented in such proceedings by the Port's General Counsel or his/her designee.

11. COMMISSION RECORDS

The Civil Service Commission shall keep on file with the Civil Service Secretary all papers, records, and other documents and communications received by it except for selection documents which shall be maintained by the Chief Examiner. Selection documents will be retained in compliance with the Port's records retention policy. Except for the selection documents and examinations, and records exempt from disclosure under ORS 192.410 et seq, all reports and files of the Civil Service Commission shall be public records and shall be accessible to the public at reasonable and convenient times.

12. RULES AND REGULATIONS

The Civil Service Commission shall adopt rules and regulations to carry out the provisions of this Ordinance. The rules and regulations shall be made available for inspection in the Civil Service Secretary's office.

13. INVESTIGATION

13.1 The Civil Service Commission may investigate any matter affecting the enforcement of this Ordinance. The Civil Service Commission shall investigate any written, verified complaint alleging that abuses of the provisions of this Ordinance exist.

13.2 In the course of the investigation, the Civil Service Commission may administer oaths, subpoena witnesses, and compel the production of books, papers, documents, and accounts pertinent to the investigation. Attendance of witnesses, either with or without books, papers, documents, or accounts, may not be compelled unless such witnesses are personally served with a subpoena. Failure to obey the terms of the subpoena shall constitute a violation of this Ordinance.

13.3 The Civil Service Commission may provide for the taking of the deposition of witnesses, or the taking of written interrogatories, in the manner prescribed by law for like depositions and interrogatories, in civil suits and actions.

13.4 Every person served with a subpoena requiring his/her attendance before the Civil Service Commission shall be entitled to the fees and mileage allowance which shall be paid in the manner provided for by law to witnesses in civil suits and actions in circuit courts, except that no Port Employee shall be entitled to any fees or mileage allowance.

14. REPORTS TO CIVIL SERVICE COMMISSION REQUIRED

Upon request of the Civil Service Commission, the Port shall provide information to the Civil Service Commission on every Employee subject to Civil Service, giving his/her name, the title or

character of the position he/she holds, the date of beginning of service, and the salary he/she receives.

15. CIVIL SERVICE PERSONNEL FILES

The Civil Service Commission shall have access to personnel files of all persons subject to Civil Service. Personnel files will contain records of all Appointments, promotions, demotions, transfers, reinstatements, resignations, suspensions, leaves of absence without pay, removals, and discharges, setting forth in each instance the date of beginning, change or termination of service, and the nature of the action, together with sufficient information to show why and how such Appointments or other changes were made.

16. PAYMENTS TO NONCERTIFIED PERSONS PROHIBITED

Except for persons holding positions under a temporary Appointment as provided in Section 22, no manager of the Port shall authorize, draw, sign, countersign, issue or honor any warrant or order for the payment of, or pay any salary or compensation to any Employee subject to Civil Service under this Ordinance who is not certified by the Civil Service Commission.

17. PORT TO CREATE POSITIONS AND TO FIX COMPENSATION

All Civil Service positions of the Port shall be created by the Port. The compensation of all represented Fire Department Employees shall be fixed through negotiation of the Collective Bargaining Agreement by the Port and Local No. 43 of the International Association of Fire Fighters. The Port has the authority to amend, add to, consolidate, or abolish classified positions.

18. EXAMINATIONS

18.1 The Civil Service Commission shall authorize the Chief Examiner to conduct open and competitive selection processes to ascertain the qualifications and fitness of applicants for all positions in the Civil Service. Selection processes shall be approved by the Civil Service Commission prior to implementation. Approved processes shall be followed when a vacancy occurs unless there is a current, active entrance register in existence. Promotional selection processes shall be followed for those who apply for such examination and who meet the eligibility requirements as determined by the Chief Examiner. Promotional selection processes shall be carried out whenever necessary to establish a Civil Service Register.

18.2 Notice of time, place, and general scope of every selection process shall be given in accordance with rules and regulations adopted by the Civil Service Commission.

18.3 All selection processes shall be practical in character and shall relate only to those matters which fairly evaluate the relative qualifications and fitness of persons examined to discharge the duties of the positions for which they are applicants. Ability to perform the essential functions of the position as described by the physical parameter analysis shall be included in the entrance selection processes. The Civil Service Commission may assess such weights on selection processes as it deems necessary. No question in the selection process shall relate to political or religious preference, affiliation, opinion, or services.

18.4 Persons who possess those eligibility requirements prescribed by rules and regulations of the Civil Service Commission will be eligible for the selection process.

18.5 The Chief Examiner shall supervise all examinations and shall designate the persons who shall conduct all examinations. No Employee within the Fire Department of the Port shall be designated as Chief Examiner.

19. CIVIL SERVICE REGISTER

19.1 The Civil Service Commission shall provide a Civil Service Register containing entry-level and promotional registers for the various classes of positions in the Civil Service. The Civil Service Commission may consolidate or cancel the entry-level and promotional registers as the needs of the Civil Service System may require.

19.2 An entry-level and/or promotional Civil Service Register will be created for new positions, or position vacancies, in the Civil Service. Entry-level and promotional Civil Service Registers will be valid up to thirty (30) months or until exhausted.

19.3 For classifications with three (3) or fewer positions, a certified Civil Service Register need not be maintained beyond the thirty (30) months. Subsequent Civil Service Registers shall be established any time there is a new vacancy.

20. CERTIFICATION OF ELIGIBLE CANDIDATES

Whenever there is a vacancy in a position in the Civil Service, the Fire Chief shall notify the Chief Examiner of the vacancy. The Chief Examiner shall thereupon certify to the Fire Chief:

20.1 If the vacancy is in an entry-level position, the names and addresses of the three (3) candidates standing highest upon the entry-level Civil Service Register. When more than one (1) vacancy is to be filled, the number of names submitted shall equal the number of vacancies, plus three (3).

20.2 If the vacancy is in a promotional position, the names and addresses of the two (2) candidates standing highest upon the promotional Civil Service Register for the classification or grade to which the position belongs. An active promotional Civil Service Register must have at least two (2) candidates.

21. APPOINTMENTS TO CIVIL SERVICE POSITIONS

21.1 After the Fire Chief has received the register of certified candidates, he/she may either appoint one (1) of the certified candidates to the vacant position or he/she may reject all certified candidates for Appointment to the position. Appointment of a certified entry-level candidate or a laterally hired position shall be contingent on the candidate successfully passing a criminal history records check, a drug screen, physical examination and psychological examination. As a condition of Appointment, the Port may also require candidates to pass a background investigation or other requirements in compliance with the Airport Security Program.

21.2 If the Fire Chief appoints one (1) of the candidates, the names of the candidates not appointed may be placed on the Civil Service Register in the same position from which the names were certified at the Fire Chief's discretion. The appointed candidate shall be placed in an introductory period in his/her new position for a period of time stated in the then current Collective Bargaining Agreement.

21.3 If the Fire Chief rejects all certified candidates, he/she shall submit a written statement for the reasons of rejection to the Civil Service Commission. Political reasons and all other reasons prohibited by law or statute are not valid reasons for rejection. The Fire Chief may determine that a candidate on the Civil Service Register is not qualified for reasons not discovered in the testing process, and may request that the Civil Service Commission remove the candidate from the Civil Service Register based on reasons and a report furnished to the Civil Service Commission.

21.4 If certified candidates are rejected by the Fire Chief, the Chief Examiner shall present name(s) and address(es) of the next eligible candidate(s) standing highest upon the Civil Service Register. The Fire Chief and the Chief Examiner shall proceed in this manner for all rejected candidates until a qualified candidate is found for the vacant position.

21.5 If an Employee is in an introductory period, the Fire Chief may discharge that person without regard to Sections 23 and 24 of this Ordinance and in a like manner appoint another certified candidate and so continue until a qualified candidate has been found.

21.6 If a person has followed a promotional selection process and has been appointed to a position in a higher classification fails to qualify for the position in the higher classification within the introductory period, he/she shall not lose his/her position in the lower classification from which the promotion was made, but shall be reinstated in the position held by him/her in such lower classification.

22. TEMPORARY APPOINTMENTS

22.1 When there is no candidate on the entry-level Civil Service Register from which a position may be filled, the Fire Chief may, with the consent of the Civil Service Commission, fill the position by temporary Appointment. A temporary Appointment shall generally not continue for more than three (3) calendar months. The temporary Appointment may be extended an additional three (3) calendar months at the discretion of the Civil Service Commission for cause shown. No classified position shall be filled by a temporary Appointment for more than six (6) calendar months.

22.2 Temporary Appointments shall be valid only until there are available candidates on the entry-level Civil Service Register. No temporary Appointment shall be made to fill any position for which the promotional procedure is followed and an eligible promotional Civil Service Register is maintained.

22.3 Temporary Appointments may also be made while a candidate selected from the entry-level Civil Service Register completes the recruitment process and introductory training requirements.

23. GROUNDS FOR DISCIPLINARY ACTION

23.1 Persons subject to the provisions of this Ordinance may be dismissed, demoted, suspended without pay, or deprived of special privileges for the following reasons:

23.1.1 Incompetency, inefficiency, or inattention to or dereliction of duty.

23.1.2 Dishonesty, intemperance, addiction to drugs or controlled substances, immoral conduct, insubordination, discourteous treatment of the public or fellow Employees, or failure to comply with requirements of the Airport Security Program.

23.1.3 Any other willful failure of good conduct tending to injure the public service.

23.1.4 Any willful violation of the provisions of this Ordinance or of the rules and regulations adopted under this Ordinance.

23.1.5 Conviction of a felony or a misdemeanor involving moral turpitude.

23.1.6 The willful giving of false information or withholding information with intent to deceive when making application for employment.

23.1.7 Any other charges properly investigated and sustained that warrant such action.

23.2 No person shall be dismissed, demoted, suspended without pay, or deprived of special privileges for political or any other reasons prohibited by law or statute.

24. DISMISSAL PROCEDURE: INVESTIGATION: ENFORCEMENT OF FINDINGS

24.1 No person subject to Civil Service who has been appointed under this Ordinance and who has satisfied an introductory period shall be dismissed, demoted, suspended without pay, or deprived of special privileges except for cause and only upon written charges. A written statement of charges and sanctions shall be served upon the accused, and a copy shall be maintained in the Employee's official personnel file. The Civil Service Commission shall be notified of any such action.

24.2 Any regular Employee who has been dismissed, demoted, suspended without pay, or deprived of special privileges may follow the grievance procedure outlined in the then current Collective Bargaining Agreement or file with the Civil Service Commission a signed, written demand for an investigation. If the demand alleges, or if it otherwise appears to the Civil Service Commission, that the dismissal was not made in good faith for cause, the Civil Service Commission shall conduct an investigation and hold a public hearing. The hearing shall be held within thirty (30) days from the time the appeal is filed. The appellant may be represented by counsel or any representative of his/her own choosing. The investigation shall be confined to the determination of the question of whether the dismissal was made in good faith for cause.

24.3 After an investigation and public hearing, the Civil Service Commission may affirm or modify the action taken by the Fire Chief, or if it finds that the dismissal was not made in good faith for cause, the Civil Service Commission shall order the immediate reinstatement of

the Employee in the position from which he/she was dismissed. Reinstatement shall be retroactive and entitle the dismissed Employee to pay or compensation or special privileges from the time of dismissal. The findings of the Civil Service Commission shall be certified in writing to the Fire Chief and immediately enforced.

25. ILLEGAL ACTS

No person shall:

25.1 Falsely mark, grade, estimate, or report upon the examination or proper standing of any person registered, or certified pursuant to this Ordinance, or aid in so doing, or make any false representation concerning the same or concerning the person examined.

25.2 Furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any applicant or person so examined, registered, or certified.

25.3 Impersonate any other person or permit or aid in any manner any person to impersonate anyone in connection with any examination registration, application, or request to apply or register.

26. CERTAIN CONTRIBUTIONS AND POLITICAL ACTIVITY PROHIBITED

No person holding any position subject to Civil Service is under any obligation to contribute to any political or religious fund or to render any political service to any person or party. No person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing to do so. No persons shall discharge, promote, demote or in any manner change the official rank, employment, or compensation of any person subject to Civil Service, or promise or threaten to do so, for giving, withholding, or neglecting to make any contribution of money or services or any other valuable thing for any political, racial, or religious purpose.

27. PARTIAL INVALIDITY

In the event any phrase, clause, sentence, paragraph, or paragraphs of this Ordinance is declared invalid for any reason, the remainder of the sentence, paragraph, or paragraphs of this Ordinance shall not be thereby invalidated, but shall remain in full force and effect, all parts being hereby declared separable and independent of all others.

28. EFFECTIVE DATE

This Ordinance shall become effective January 11, 2008.

ADOPTED THIS 12TH day of December, 2007, being the date of its second reading before the Board of Commissioners of the Port of Portland.