

ORDINANCE NO. 866
AN ORDINANCE OF THE CITY
OF NEWPORT BEACH RELAT-
ING TO CIVIL SERVICE.

The people of the City of New-
port Beach do ordain as follows:
SECTION 1. DEFINITIONS.

The following terms, whenever
used in this ordinance shall be
construed as follows:

"Acting appointment". The
temporary appointment of a per-
son to a position in a class for
which there is no employment
list; to a position occupied by a
regular employee on suspension
as provided in Section 7(e) of
this ordinance; or to a position
occupied by a probationary or
regular employee who is on a
leave of absence.

"Allocation". The assignment
of a single position to the proper
class in accordance with the spe-
cifications for that class.

"Applicant". A person whose
application for employment has
been accepted, but who has not
yet taken part in the selection
procedure for a class.

"Board". The Civil Service
Board established pursuant to
this ordinance and the Newport
Beach City Charter.

"Candidate". An applicant who
is participating in the selection
procedure for a class.

"Certification". The act of noti-
fying a department head of the
candidates whose names appear
on employment lists as set forth
in Section 9(1) of this ordinance.

"City." The City of Newport
Beach.

"City Charter". The City Char-
ter of the City of Newport Beach.

"City Council". The City Coun-
cil of the City of Newport Beach.

"Class". A group of positions
sufficiently similar in duties, re-
sponsibilities, authority, and

minimum qualifications for em-
ployment to permit combining
them under a common title and
the equitable application of com-
mon standards of selection and
compensation.

"Class Specifications". A writ-
ten description of a class, setting
forth factors and conditions
which are essential characteris-
tics of positions in the class.

"Continuous service". The serv-
ice without break or interruption
of an employee having a proba-
tionary or regular appointment.

"Copyrighted or standardized
tests". Written examinations
which are used by agencies other
than the City of Newport Beach.

"Demotion". The reduction of
an employee from a position in
one class to a position in an-
other class which has a lower
maximum rate of compensation.

"Department head". An em-
ployee who is the head of an
established office or department.

"Discharge". The termination
of a regular employee pursuant
to Section 14 of this ordinance.

"Eligible". A person whose
name appears on an employment
list.

"Employee". A person legally
occupying a position.

"Employment lists". As de-
scribed in Section 9 of this or-
dinance, a list of the names of
candidates who are eligible for
probationary appointments to
positions in a particular class.

"Entrance-level position". A
position in the first or beginning
class in a series of classes which
have increasingly responsible
duties and progressively higher
minimum qualifications and
compensation.

"Exempt position". Those posi-
tions which either are specific-
ally excluded by the City Charter

from the Civil Service System or which are not included in the system in accordance with Section 2 of this ordinance.

"Layoff". As an economy measure, the separation of an employee because of lack of work or lack of funds.

"Open recruitment". A recruitment that is not restricted to City employees.

"Original appointment". A person's first appointment as an employee of the City of Newport Beach.

"Permanent position". A position that is expected to exist indefinitely.

"Position". A combination of current duties and responsibilities assigned to a single employee and performed on either a full-time or part-time basis.

"Probationary status". The status of a person who has acquired a probationary appointment.

"Probation period". A working test period that is part of the selection process and during which an employee is required to demonstrate his fitness for the duties of the position to which he has been assigned by actual performance of such duties.

"Promotion". The advancement of an employee from a position in one class to a position in another class which has a higher maximum rate of compensation.

"Promotional recruitment". A recruitment that is restricted to City employees.

"Reallocation". The reassignment of a single position in a class to a different class on the basis of a change in the duties and responsibilities of the position.

"Reassignment". The change of an employee by a department head from a position in a class to another position in the same class.

"Recruitment". The process of attracting qualified persons to participate in a selection process for a class.

"Regular employee". An employee who has successfully completed his probationary period in a position.

"Regular status". The status of an employee who has acquired a regular appointment.

"Reinstatement". The re-employment of a former employee.

"Rejection". The separation from the City service of an employee who does not successfully complete his probation period in a position and who does not have regular status in another position in a different class; or, the reduction of an employee who did not successfully complete his probation period in a position to another position in a different class in which he has acquired regular status.

"Resignation". An employee's voluntary separation.

"Rules and Regulations". The Civil Service Rules and Regulations adopted pursuant to this ordinance.

"Selection". The process of evaluating the qualifications of candidates through one or more techniques.

"Separation". The termination of an employee's service with the City.

"Suspension". The temporary separation of an employee as a disciplinary action.

"System". The Civil Service System created in accordance with this ordinance and the Newport Beach City Charter and including only those positions to which the provisions of this ordinance apply.

"Temporary position". A position of limited duration.

"Transfer". A change of an employee from one position to another position in the same class or in another class having the same maximum salary rate, involving the performance of basically similar duties, and requiring substantially the same minimum qualifications.

"Vacancy". A position that is not occupied by an employee having either a probationary or regular appointment.

SECTION 2. ESTABLISHMENT OF CIVIL SERVICE SYSTEM.

Pursuant to Article VIII of the City Charter, all full-time, regular, and permanent positions and

employment in the Police and Fire Departments are included in the System, except those positions excluded by Section 802 of the City Charter. The City Council by ordinance may include in the System positions in other departments.

SECTION 3. PURPOSE OF SYSTEM.

The purpose of the System is to establish an equitable and uniform procedure for dealing with personnel matters; to attract to the City service the most competent persons available; to assure that the appointment and promotion of employees will be based on merit and fitness; and to provide reasonable security for employees.

SECTION 4. CREATION OF A CIVIL SERVICE BOARD.

There is hereby established a Civil Service Board consisting of five members to be appointed by the City Council in accordance with the City Charter. Each of the members shall be a person of good repute in his business, profession or occupation and known to support civil service principles in the public service.

SECTION 5. RESPONSIBILITIES AND AUTHORITY OF BOARD.

The functions of the Board shall be:

(a) Meetings. To determine the order of business for the conduct of its meetings; to hold regular meetings at least once a month and such special meetings as are necessary on call of the chairman or a majority of the members of the Board, and to keep a record of its proceedings and transactions. A majority of the members of the Board shall constitute a quorum for the transaction of business.

(b) Rules and Regulations. To recommend to the City Council, after approval by the City Attorney and after a public hearing thereon, the adoption, amendment, or repeal of Rules and Regulations to implement the provisions of this ordinance. After adoption by motion of the City Council, such Rules and

Regulations shall have the force and effect of law.

(c) Appeals. To receive and hear appeals submitted by any person or any applicant or candidate for a position in the City employment relative to original appointment, promotion, dismissal, demotion, suspension and other disciplinary actions; the alleged violation of this ordinance or the Rules and Regulations; and to certify its findings and recommendations as provided in this Ordinance.

(d) Advisory role. To act in an advisory capacity to the City Council on personnel administration in the City service.

(e) Recruitment and selection. Subject to the provisions of this ordinance and the Rules and Regulations, to establish policies and approve procedures for the recruitment and selection of Civil Service personnel, including, but not limited to, the posting of recruitment notices, the preparation and scoring of examinations, and the establishment and certification of employment lists.

(f) Investigations. To make any investigation concerning the administration of personnel in the City service and report its findings to the City Council and City Manager when requested to do so by the City Council, the City Manager or by any organized City employees' association.

In any investigation or hearing it conducts the Board shall have the authority to examine witnesses under oath and to compel their attendance or the production of evidence before it by subpoenas issued in the name of the City and attested by the City Clerk. It shall be the duty of the Police Chief to cause all such subpoenas to be served, and refusal of a person to attend or to testify in answer to such subpoenas shall subject said person to prosecution in the same manner set forth by law for failure to appear before the City Council. Each member of the Board shall have the power to administer oaths to witnesses.

SECTION 6. RESPONSIBILITIES AND AUTHORITY OF CITY MANAGER.

The City Manager shall be responsible for the following:

(a) Rules and Regulations. Preparation of amendments to the Rules and Regulations for recommendation to the Board. The City Attorney shall approve the legality of such amendments prior to their submission by the Board to the City Council for its approval. Rules and Regulations shall be adopted by motion of the City Council.

(b) Class Specifications. Subject to approval by the Board, the preparation and revision of class specifications for positions included in the System.

(c) Personnel procedures. Administration of Board policies and procedures within the framework of this ordinance and the Rules and Regulations, including:

1. Public announcement of vacancies and examinations and the review of applications for employment.

2. Preparation and conduct of examinations and the establishment and use of employment lists.

3. Certification and appointment of eligibles.

4. Evaluation of employees during probation periods and periodically thereafter.

5. Appointment, transfer, promotion, demotion, rejection, lay-off, dismissal and re-instatement of employees.

6. Allocation of positions to classes on the basis of duties, responsibilities and minimum qualifications.

7. Maintenance and use of personnel records.

8. Maintenance of effective communications between employees and their supervisors; between employees and the City Manager; and between employees and the Board relative to conditions of employment.

SECTION 7. APPOINTMENTS.

(a) General policy. Appointments shall be based on merit and fitness to be ascertained so

far as practicable by competitive examination. Appointments shall be made from employment lists by the department head on approval of the City Manager.

(b) Employment lists. Subject to the provisions of this ordinance with respect to re-employment lists and the selection of the Police and Fire Chiefs, when an appointment is to be made the names of the highest three eligibles willing to accept appointment shall be certified to the department head in the order in which they appear on the appropriate employment list and the appointment shall be limited to these eligibles.

(c) Acting appointments. In the absence of an employment list for a class, a vacant position in that class may be filled by an acting appointment. No credit shall be allowed in any examination or the establishment of any employment list for service rendered under an acting appointment.

(d) Temporary positions. Appointments to temporary positions need not be made from employment lists.

(e) Appointment during suspension. During the period of suspension of a regular employee from a position or pending final action on proceedings to review the suspension, demotion, or dismissal of a regular employee, the position may be filled only by an acting appointment.

(f) Transfers. With the approval of the City Manager an employee may be transferred from one position to another. Transfers shall not affect in any way the status, rights and privileges of an employee under this ordinance.

(g) Reinstatements. Provisions governing the reinstatement of a former employee shall be provided in the Rules and Regulations.

SECTION 8. RECRUITMENT AND SELECTION.

(a) Recruitment. Recruitment shall be specified by the Board as promotional or as open. Insofar as practicable and consistent with the best interests of the City

service, all vacancies shall be filled by promotion.

(b) Selection.

1. The scope of an examination for a class shall be approved by the Board and stated in the examination announcement. It may consist of any one or a combination of the following techniques: written, oral, and demonstration tests; an appraisal of education and experience; and any test of manual skills or physical fitness which fairly evaluates the candidates.

2. A probation period as established in the Rules and Regulations shall apply to all appointments to positions included in the System except acting appointments. Successive probation periods in a position shall not be allowed. In the event of promotion to a position in a higher class and at any time within his probation period in that position, an employee may be rejected by the department head and reduced to the position he occupied prior to such promotion without right of appeal to the Board, provided he had acquired regular status in such former position. If the employee had not acquired regular status in the System prior to such promotion, he may be discharged without right of appeal to the Board.

SECTION 9. EMPLOYMENT LISTS.

(a) Priorities. Priority for consideration for employment shall be given to employment lists in the following order: re-employment lists, promotional employment lists, and open employment lists.

(b) Re-employment lists. The re-employment list for a class shall consist of the names of the following:

(1) Layoff. Regular employees who have been laid off for lack of work or lack of funds.

(2) Position reallocation. Regular employees whose positions in a class have been reallocated to a class with a lower maximum rate of compensation.

Such names shall be placed on the list in reverse order of lay-

off or position reallocation. The order of layoff or position reallocation shall be on the basis of inverse employee seniority in the class.

(c) Promotional employment lists. Promotional employment lists shall consist of the names of City employees who have been successful in a promotional recruitment and examination.

(d) Open employment lists. Open employment lists shall consist of the names of all candidates who have been successful in an open recruitment and examination.

(e) Layoffs. The names of probationary employees who are laid off or reduced in rank for lack of work or lack of funds shall be restored to the same promotional or open employment list from which the original appointment was made and in the same order as when the original appointment was made.

(f) Certification. Certification shall be made in conformance with the following provisions:

1. If a re-employment list exists for the class, the highest name on such list shall be certified for each vacancy to be filled. Names on promotional or open employment lists shall not be certified if a re-employment list for the class exists.

2. Except for acting appointments, no person may be appointed or transferred to any position in the System unless he possesses the minimum qualifications set forth in the class specifications for that position.

(g) Duration of employment lists. The duration of employment lists shall be as prescribed in the Rules and Regulations.

SECTION 10. SELECTION OF POLICE AND FIRE CHIEFS.

(a) Intent. It is the intent of this section that vacancies in the positions of Police Chief and Fire Chief be filled by the best qualified persons available as determined by competitive examination. Qualifications being substantially equal, preference shall be given to candidates in the Newport Beach Fire and Police

Departments who qualify under the selection process herein described.

This section shall not be construed to include the positions of Police Chief and Fire Chief in the System.

(b) Selection process. The selection of the Police Chief and Fire Chief shall be made by the City Manager from among the candidates whose names appear on an open employment list for the class. Such list shall be created as a result of an examination consisting of a written test weighted at 50 percent and a qualifications appraisal weighted at 50 percent. The minimum qualifying score on each phase of the examination shall be 70 percent.

The written test shall be prepared by a professional personnel agency designated by the City Manager with the approval of the Civil Service Board.

The qualifications appraisal board which interviews candidates successful on the written test shall consist of the following:

- (1) The Chairman and one other Board member selected by the Board.
- (2) Two chiefs selected by the Board from other police or fire departments in cities with populations comparable to Newport Beach.
- (3) One person selected by the City Manager.

The scope of the written test and the factors to be rated by the qualifications appraisal board shall be jointly established by the City Manager and the Board.

In order to be eligible to compete in the selection process for Police Chief or Fire Chief, all candidates must possess the minimum qualifications set forth in the class specifications. Such class specifications shall be prepared by the City Manager with the approval of the Board.

SECTION 11. EXAMINATION ANNOUNCEMENTS. Examination announcements shall be posted not less than two weeks

prior to the final date for submitting applications. Such posting shall be in a conspicuous place at the City Hall, at the office of the appropriate department, and at such other places as the Board deems appropriate.

SECTION 12. INSPECTION OF EXAMINATION PAPERS.

(a) In general. The examination papers of candidates are not subject to inspection by the public. Upon request made within seven days after the notices of the examination results have been mailed, any candidate may inspect his own examination papers, including the questions and his answers, excepting copyrighted or standardized tests. On copyrighted or standardized tests the candidate may review the accuracy of scoring and computations by comparing his answer sheet with the key answer sheet. The written comments of a qualifications appraisal board and the written evaluation of a psychiatrist, if any, shall not be reviewed by the candidate; on request of the candidate, his rating by the qualifications appraisal board shall be summarized for his information.

(b) Review procedure. If the candidate believes an error has been made in the grading of his examination or in the credit given to him, he may within twelve days after the mailing of examination results make written application to the Board for a review; provided, however, that in such application he must state specifically and particularly wherein he believes an error has been made.

Upon receipt of such application and in no case later than its next regular meeting, the Board shall examine the candidate's papers and grades. Any error or injustice shall be corrected, and any change in the order of standing of candidates as a result thereof shall be made by the Board. No appointments shall be made from the employment lists until the Board has acted upon such application. The Board's decision shall be final.

SECTION 13. EMPLOYMENT CONDITIONS.

(a) Applications. The Board shall have the right to require all applicants to submit applications, agreements, or statements pertinent to their employment.

(b) Exempt positions. Where there is no actual break in continuous service, an employee having probationary or regular status in a position in the System who is appointed to an exempt position shall retain such status in the Civil Service position. Upon vacating the exempt position, the employee shall on his request be restored to his former status in the position unless the reason for such vacating is sufficient grounds for discharge from the City service as described in this ordinance.

This provision shall not apply to an employee who resigns from a position in the System and, without a break in his continuous service with the City, is appointed to an exempt position.

SECTION 14. EMPLOYEE APPEALS. The Board shall convene in regular or special meetings for the purpose of reviewing appeals of regular employees as follows: Any regular employee in the System who has been suspended, demoted, or discharged may, within a period of five days after such action, request of the department head a written statement of the reasons for such action. The department head shall furnish such statement within five days thereafter. The employee may, within ten days thereafter, file a written answer to such reasons with the Board. The Board shall within fifteen days investigate the case and shall schedule a hearing. The hearing shall be a closed hearing at the request of the employee.

SECTION 15. DEMOTION, SUSPENSION AND DISCHARGE. Employees in the System may be demoted, suspended, or discharged only on the following grounds: Incompetency; inefficiency; dishonesty; misconduct; insubordination; or failure to ob-

serve departmental or City rules and regulations.

SECTION 16. HEARINGS.

(a) In general. Board hearings need not be conducted according to technical rules relating to evidence and witnesses.

(b) Right of counsel. The employee may be represented by counsel and shall have the right to produce witnesses to testify in his behalf. The Board shall issue subpoenas and compel the attendance of all witnesses.

(c) Modification of department head's action. The Board may modify or revoke a disciplinary action only on the following grounds:

1. The facts do not justify the action taken.
2. A substantive violation or omission of procedure was made.
3. The action taken was unreasonable, capricious or arbitrary in view of the offense, the circumstances surrounding the offense, and the past record of the employee.

(d) Reimbursement for loss of pay. An employee shall be reimbursed for a loss of pay arising from a disciplinary action against him to the extent that it is subsequently revoked or modified by the Board. Reimbursement shall be confined to the period of time between the date of such disciplinary action and the date of the Board's final decision as set forth in Section 16 (e) hereafter.

(e) Findings. The Board shall certify copies of its findings and decisions to the City Manager, the department head from whose action the appeal was made, and the appellant employee. The Board's decision shall be final.

SECTION 17. POLITICAL ACTIVITIES.

(a) Political activities prohibited. Any person occupying a position included in the System shall not:

1. Take an active part in a County of Orange or City political campaign.
2. Act as a worker at the polls or distribute badges, pamphlets, dodgers, or handbills of any kind

favoring or opposing any candidate for election or nomination to a County of Orange or City office.

(b) Activities not affected. This ordinance does not prohibit any person occupying a position included in the System from:

1. Becoming or continuing to be a member of a political club or organization.
2. Attending a political meeting.
3. Enjoying complete freedom from interference of any kind in casting his vote.
4. Seeking or accepting election or appointment to a public office while on leave of absence.
5. Seeking signatures to any initiative or referendum petition directly affecting his rates of compensation, hours of work, retirement, or other conditions of employment.
6. Distributing badges, pamphlets, dodgers or handbills, or other activities in connection with such petition if not carried on during his hours of work or when he is dressed in the uniform required in his City department.

SECTION 18. STATUS OF PRESENT EMPLOYEES. Any employee who, prior to the effective date of this ordinance, attained probationary or regular status in the System shall retain such status. Employees in permanent positions in the Police and Fire Departments on such date who had not previously been considered as being in the System shall on such date be presumed to have completed their probation periods and shall acquire regular status in the System.

SECTION 19. SEVERABILITY. If any provision of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining provisions.

SECTION 20. CONFLICTING LEGISLATION.

(a) Conflicts with City Charter. In the event of any conflict between this ordinance and the City Charter, the provisions of the City Charter shall prevail.

(b) Conflicting ordinances. Ordinance No. 511 is hereby repealed.

SECTION 21. CODIFICATION AMENDMENT.

This ordinance may be codified by the City Council in a single chapter of the Newport Beach Municipal Code, but may not be repealed or amended except by a majority vote of the electors voting thereon at any general or special municipal election. A majority of two-thirds of the electors voting thereon is necessary for the approval of any amendment or repeal that withdraws any department, officer or employee from the System.

SECTION 22. PENALTY FOR VIOLATION. Any person who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in the Newport Beach Municipal Code for violations of said code.

SECTION 23. EFFECTIVE DATE. This ordinance shall be effective ten days after the canvassing board determines that it was adopted by a majority vote of the electors voting thereon at the special municipal election called for November 4, 1958."

The Canvassing Board determined by adoption of a Resolution on Nov. 19, 1958, that this Ordinance was adopted by a majority vote of the electors voting thereon on Nov. 4, 1958. Ordinance No. 866 will become effective Nov. 29, 1958.

Dated Nov. 24, 1958.

Margery Schrouder, City Clerk
City of Newport Beach, Calif.

STATE OF CALIFORNIA
COUNTY OF ORANGE
CITY OF NEWPORT BEACH

SS.

I, Margery Schröder, City Clerk of the City of Newport

Ordinance

Beach, California, do hereby certify that the foregoing adopted by a majority vote of the electors
No. 866 was duly and regularly adopted, passed, and approved by the City Council

of the City of Newport Beach, California, at a regular meeting of said City Council held at the
voting thereon on regular meeting place thereof, on the 4th day of November, 1958

by the following vote:

AYES: COUNCILMEN

NOES: COUNCILMEN

ABSENT: COUNCILMEN

Dated this 31st day of December, 1958

Margery Schröder
City Clerk and Ex-Officio Clerk of the City Council,
City of Newport Beach, State of California

Chapter 2.24 CIVIL SERVICE SYSTEM*

Sections:

- 2.24.010 Definitions.
- 2.24.020 Inclusion in System.
- 2.24.030 Purpose of System.
- 2.24.040 Board Established.
- 2.24.050 Responsibilities and Authority of Board.
- 2.24.060 Responsibilities and Authority of City Manager.
- 2.24.070 Appointments.
- 2.24.080 Recruitment and Selection.
- 2.24.090 Employment Lists.
- 2.24.100 Selection of Fire and Police Chiefs.
- 2.24.110 Examination Announcements.
- 2.24.120 Inspection of Examination Papers.
- 2.24.130 Conditions for Employment.
- 2.24.140 Employee Appeals.
- 2.24.150 Grounds for Demotion, Suspension or Discharge.
- 2.24.160 Board Hearings.
- 2.24.170 Political Activities.
- 2.24.180 Status of Prior Employees.
- 2.24.190 Conflicts with City Charter.
- 2.24.200 Codification Conditions—Amendments.
- 2.24.210 Penalty for Violation.

* Ordinance 866 from which this chapter was derived is an initiative ordinance and may be repealed or amended only as provided in Section 2.24.200.

2.24.010 Definitions.

The following terms, whenever used in this chapter shall be construed as follows:

Acting Appointment. The term "acting appointment" shall mean the temporary appointment of a person to a position in a class for which there is no employment list; to a position occupied by a regular employee on suspension as provided in Section 2.24.070; or to a position occupied by a probationary or regular employee who is on a leave of absence.

Allocation. The term "allocation" shall mean the assignment of a single position to the proper class in accordance with the specifications for that class.

Applicant. The term "applicant" shall mean a person whose application for employment has been accepted, but who has not yet taken part in the selection procedure for a class.

Board. The term "board" shall mean the Civil Service Board established pursuant to this chapter and the Newport Beach City Charter.

Candidate. The term "candidate" shall mean an applicant who is participating in the selection procedure for a class.

Certification. The term "certification" shall mean the act of notifying a department head of the candidates whose names appear on employment lists as set forth in Section 2.24.090.

City. The term "City" shall mean the City of Newport Beach.

City Charter. The term "City Charter" shall mean the City Charter of the City of Newport Beach.

City Council. The term "City Council" shall mean the City Council of the City of Newport Beach.

Class. The term "class" shall mean a group of positions sufficiently similar in duties, responsibilities, authority, and minimum qualifications for employment to permit combining them under a common title and the equitable application of common standards of selection and compensation.

Class Specifications. The term "class specifications" shall mean a written description of a class, setting forth factors and conditions which are essential characteristics of positions in the class.

Continuous Service. The term "continuous service" shall mean the service without break or interruption of an employee having a probationary or regular appointment.

Copyrighted or Standardized Tests. The phrase "copyrighted or standardized tests" shall mean written

examinations which are used by agencies other than the City of Newport Beach.

Demotion. The term "demotion" shall mean the reduction of an employee from a position in one class to a position in another class which has a lower maximum rate of compensation.

Department Head. The term "department head" shall mean an employee who is the head of an established office or department.

Discharge. The term "discharge" shall mean the termination of a regular employee pursuant to Section 2.24.140.

Eligible. The term "eligible" shall mean a person whose name appears on an employment list.

Employee. The term "employee" shall mean a person legally occupying a position.

Employment Lists. The term "employment lists" as described in Section 2.24.090 shall mean a list of the names of candidates who are eligible for probationary appointments to positions in a particular class.

Entrance-Level Position. The term "entrance-level position" shall mean a position in the first or beginning class in a series of classes which have increasingly responsible duties and progressively higher minimum qualifications and compensation.

Exempt Position. The term "exempt position" shall mean those positions which either are specifically excluded by the City Charter from the Civil Service System or which are not included in the system in accordance with Section 2.24.020.

Layoff. The term "layoff" shall mean, as an economy measure, the separation of an employee because of lack of work or lack of funds.

Open Recruitment. The term "open recruitment" shall mean a recruitment that is not restricted to City employees.

Original Appointment. The term "original appointment" shall mean a person's first appointment as an employee of the City of Newport Beach.

Permanent Position. The term "permanent position" shall mean a position that is expected to exist indefinitely.

Position. The term "position" shall mean a combination of current duties and responsibilities assigned to a single employee and performed on either a full-time or part-time basis.

Probationary Status. The term "probationary status" shall mean the status of a person who has acquired a probationary appointment.

Probation Period. The term "probation period" shall mean a working test period that is part of the selection process and during which an employee is required to demonstrate his fitness for the duties of the position to which he has been assigned by actual performance of such duties.

Promotion. The term "promotion" shall mean the advancement of an employee from a position in one class to a position in another class which has a higher maximum rate of compensation.

Promotional Recruitment. The term "promotional recruitment" shall mean a recruitment that is restricted to City employees.

Reallocation. The term "reallocation" shall mean the reassignment of a single position in a class to a different class on the basis of a change in the duties and responsibilities of the position.

Reassignment. The term "reassignment" shall mean the change of an employee by a department head from a position in a class to another position in the same class.

Recruitment. The term "recruitment" shall mean the process of attracting qualified persons to participate in a selection process for a class.

Regular Employee. The term "regular employee" shall mean an employee who has successfully completed his probationary period in a position.

Regular Status. The term "regular status" shall mean the status of an employee who has acquired a regular appointment.

Reinstatement. The term "reinstatement" shall mean the reemployment of a former employee.

Rejection. The term "rejection" shall mean separation from the City service of an employee who does not successfully complete his probation period in a position and who does not have regular status in another position in a different class; or, the reduction of an employee who did not successfully complete his probation period in a position to another position in a different class in which he has acquired regular status.

Resignation. The term "resignation" shall mean an employee's voluntary separation.

Rules and Regulations. The term "rules and regulations" shall mean the Civil Service rules and regulations adopted pursuant to this chapter.

Selection. The term "selection" shall mean the process of evaluating the qualifications of candidates through one or more techniques.

Separation. The term "separation" shall mean the termination of an employee's service with the City.

Suspension. The term "suspension" shall mean the temporary separation of an employee as a disciplinary action.

System. The term "system" shall mean the Civil Service System created in accordance with this chapter and the Newport Beach City Charter, and including only those positions to which the provisions of this chapter apply.

Temporary Position. The term "temporary position" shall mean a position of limited duration.

Transfer. The term "transfer" shall mean a change of an employee from one position to another position in the same class or in another class having the same maximum salary rate, involving the performance of basically similar duties, and requiring substantially the same minimum qualifications.

Vacancy. The term "vacancy" shall mean a position that is not occupied by an employee having either a probationary or regular appointment. (Ord. 866 § 1; November 24, 1958)

2.24.020 Inclusion in System.

Pursuant to Article VIII of the City Charter, all full-time, regular, and permanent positions and employment in the Police and Fire Departments are included in the system, except those positions excluded by Section 802, of the City Charter. The City Council, by ordinance, may include in the system positions in other departments. (Ord. 866 § 2; November 24, 1958)

2.24.030 Purpose of System.

The purpose of the system is to establish an equitable and uniform procedure for dealing with personnel matters; to attract to the City service the most competent persons available; to assure that the appointment and promotion of employees will be based on merit and fitness; and to provide reasonable security for employees. (Ord. 866 § 3; November 24, 1958)

2.24.040 Board Established.

There is hereby established a Civil Service Board consisting of five members to be appointed by the City Council in accordance with the City Charter. Each of the members shall be a person of good repute in his business, profession or occupation and known to support civil service principles in the public service. (Ord. 866 § 4; November 24, 1958)

2.24.050 Responsibilities and Authority of Board.

The functions of the Board shall be:

A. **Meetings.** To determine the order of business for the conduct of its meetings; to hold regular meetings at least once a month and such special meetings as are necessary on call of the chairman or a majority of the members of the Board, and to keep a record of its proceedings and transactions. A majority of the members of the Board shall constitute a quorum for the transaction of business.

B. **Rules and Regulations.** To recommend to the City Council, after approval by the City Attorney and after a public hearing thereon, the adoption, amendment, or repeal of rules and regulations to implement the provisions of this chapter. After adoption by motion of the City Council, such rules and regulations shall have the force and effect of law.

C. **Appeals.** To receive and hear appeals submitted by any person or any applicant or candidate for a position in the City employment relative to original appointment, promotion, dismissal, demotion, suspension and other disciplinary actions; the alleged violation of this chapter or the rules and regulations; and to certify its finding and recommendations as provided in this chapter.

D. **Advisory Role.** To act in an advisory capacity to the City Council on personnel administration in the City service.

E. **Recruitment and Selection.** Subject to the provisions of this chapter and the rules and regulations, to establish policies and approve procedure for the recruitment and selection of Civil Service personnel, including, but not limited to, the posting of recruitment notices, the preparation and scoring of examinations, and the establishment and certification of employment lists.

F. **Investigations.** To make any investigation concerning the administration of personnel in the City service and report its finding to the City Council and City Manager when requested to do so by the City Council, the City Manager or by any organized City employee's association.

In any investigation or hearing it conducts, the Board shall have the authority to examine witnesses under oath and to compel their attendance or the production of evidence before it by subpoenas issued in the name of the City and attested by the City Clerk. It shall be the duty of the Police Chief to cause all such subpoenas to be served, and refusal of a person to attend or to testify in answer to such subpoenas shall subject said person to prosecution in the same manner set forth by law for failure to appear before the City Council. Each member of the Board shall have the power to administer oaths to witnesses. (Ord. 866 § 5; November 24, 1958)

2.24.060 Responsibilities and Authority of City Manager.

The City Manager shall be responsible for the following:

A. Rules and Regulations. Preparation of amendments to the rules and regulations for recommendation to the Board. The City Attorney shall approve the legality of such amendments prior to their submission by the Board to the City Council for its approval. Rules and regulations shall be adopted by motion of the City Council.

B. Class Specifications. Subject to approval by the Board, the preparation and revision of class specifications for positions included in the system.

C. Personnel Procedures. Administration of Board policies and procedures within the framework of this chapter and the rules and regulations, including:

1. Public announcement of vacancies and examinations and the review of applications for employment.
2. Preparation and conduct of examinations and the establishment and use of employment lists.
3. Certification and appointment of eligibles.
4. Evaluation of employees during probation periods and periodically thereafter.
5. Appointment, transfer, promotion, demotion, rejection, layoff, dismissal and reinstatement of employees.
6. Allocation of positions to classes on the basis of duties, responsibilities and minimum qualifications.
7. Maintenance and use of personnel records.
8. Maintenance of effective communications between employees and their supervisors; between employees and the City Manager; and between employees and the Board relative to conditions of employment. (Ord. 866 § 6; November 24, 1958)

2.24.070 Appointments.

A. General Policy. Appointments shall be based on merit and fitness to be ascertained so far as practicable by competitive examination. Appointments shall be made from employment lists by the department head on approval of the City Manager.

B. Employment Lists. Subject to the provisions of this chapter with respect to reemployment lists and the selection of the Police and Fire Chiefs, when an appointment is to be made the names of the highest three eligibles willing to accept appointment shall be certified to the department head in the order which they appear on the appropriate employment list and the appointment shall be limited to these eligibles.

C. Acting Appointments. In the absence of an employment list for a class, a vacant position in that class may be filled by an acting appointment. No credit shall be allowed in any examination or the establishment of any employment list for service rendered under an acting appointment.

D. Temporary Positions. Appointments to temporary positions need not be made from employment lists.

E. During Suspension. During the period of suspension of a regular employee from a position or pending final action on proceedings to review the suspension, demotion, or dismissal of a regular employee, the position may be filled only by an acting appointment.

F. Transfers. With the approval of the City Manager, an employee may be transferred from one position to another. Transfers shall not affect in any way the status, rights and privileges of an employee under this chapter.

G. Reinstatement. Provisions governing the reinstatement of a former employee shall be provided in the rules and regulations. (Ord. 866 § 7; November 24, 1958)

2.24.080 Recruitment and Selection.

A. Recruitment. Recruitment shall be specified by the Board as promotional or as open. Insofar as practical and consistent with the best interests of the City service, all vacancies shall be filled by promotion.

B. Selection.

1. The scope of an examination for a class shall be approved by the Board and stated in the examination announcement. It may consist of any one or a combination of the following techniques: written, oral, and demonstration tests; and appraisal of education and experience; and any test of manual skills or physical fitness which fairly evaluates the candidates;

2. A probation period as established in the rules and regulations shall apply to all appointments to positions included in the system, except acting appointments. Successive probation periods in a position shall not be allowed. In the event of promotion to a position in a higher class and at any time within his probation period in that position, an employee may be rejected by the department head and reduced to the position he occupied prior to such promotion without right of appeal to the Board, provided he had acquired

regular status in such former position. If the employee had not acquired regular status in the system prior to such promotion, he may be discharged without right of appeal to the Board. (Ord. 866 § 8; November 24, 1958)

2.24.090 Employment Lists.

A. **Priorities.** Priority for consideration for employment shall be given to employment lists in the following order: reemployment lists, promotional employment lists, and open employment lists.

B. **Reemployment Lists.** The reemployment list for a class shall consist of the names of the following:

1. **Layoff:** Regular employees who have been laid off for lack of work or lack of funds.
2. **Position reallocation:** Regular employees whose positions in a class have been reallocated to a class with a lower maximum rate of compensation.

Such names shall be placed on the list in reverse order of layoff or position reallocation. The order of layoff or position reallocation shall be on the basis of inverse employee seniority in the class.

C. **Promotional Employment Lists.** Promotional employment lists shall consist of the names of City employees who have been successful in a promotional recruitment and examination.

D. **Open Employment Lists.** Open employment lists shall consist of the names of all candidates who have been successful in an open recruitment and examination.

E. **Layoffs.** The names of probationary employees who are laid off or reduced in rank for lack of work or lack of funds shall be restored to the same promotional or open employment list from which the original appointment was made and in the same order as when the original appointment was made.

F. **Certification.** Certification shall be made in conformance with the following provisions:

1. If a reemployment list exists for the class, the highest name on such list shall be certified for each vacancy to be filled. Names on promotional or open employment lists shall not be certified if a reemployment list for the class exists.

2. Except for acting appointments, no person may be appointed or transferred to any position in the system unless he possesses the minimum qualifications set forth in the class specifications for that position.

G. **Duration.** The duration of employment lists shall be as prescribed in the rules and regulations. (Ord. 866 § 9; November 24, 1958)

2.24.100 Selection of Fire and Police Chiefs.

A. **Intent.** It is the intent of this section that vacancies in the position of Police Chief and Fire Chief be filled by the best qualified persons available as determined by competitive examination. Qualifications being substantially equal, preference shall be given to candidates in the Newport Beach Fire and Police Departments who qualify under the selection process herein described.

B. **Not Included in System.** This section shall not be construed to include the positions of Police Chief and Fire Chief in the system.

C. **Selection Process.** The selection of the Police Chief and Fire Chief shall be made by the City Manager from among the candidates whose names appear on an open employment list for the class. Such list shall be created as a result of an examination consisting of a written test weighted at fifty percent and qualifications appraisal weighted at fifty percent. The minimum qualifying score on each phase of the examination shall be seventy percent.

D. **Preparation of Written Test.** The written test shall be prepared by a professional personnel agency designated by the City Manager with the approval of the Civil Service Board.

E. **Qualifications Appraisal Board.** The qualifications appraisal board which interviews candidates successful on the written test shall consist of the following:

1. The Chairman and one other Board member selected by the Board.
2. Two chiefs selected by the Board from other Police or Fire Departments in cities with populations comparable to Newport Beach.
3. One person selected by the City Manager.

F. **Establishment of Qualification Factors.** The scope of the written test and the factors to be rated by the qualifications appraisal board shall be jointly established by the City Manager and the Board.

G. **Conformance to Minimum Qualifications.** In order to be eligible to compete in the selection process for Police Chief or Fire Chief, all candidates must possess the minimum qualifications set forth in the class specifications. Such class specifications shall be prepared by the City Manager with the approval of the Board. (Ord. 866 § 10; November 24, 1958)

2.24.110 Examination Announcements.

Examination announcements shall be posted not less than two weeks prior to the final date for submitting applications. Such posting shall be in a conspicuous place at the City Hall, at the office of the appropriate

department, and at such other places as the Board deems appropriate. (Ord. 866 § 11; November 24, 1958)

2.24.120 Inspection of Examination Papers.

A. In General. The examination papers of candidates are not subject to inspection by the public. Upon request made within seven days after the notices of the examination results have been mailed, any candidate may inspect his own examination papers, including the questions and his answers, excepting copyrighted or standardized tests. On copyrighted or standardized tests the candidate may review the accuracy of scoring and computations by comparing his answer sheet with the key answer sheet. The written comments of a qualifications appraisal board and the written evaluation of a psychiatrist, if any, shall not be reviewed by the candidate. On request of the candidate, his rating by the qualifications appraisal board shall be summarized for his information.

B. Review Procedure. If the candidate believes an error has been made in the grading of his examination or in the credit given to him, he may, within twelve days after the mailing of examination results, make written application to the Board for a review; provided, however, that in such application he must state specifically and particularly wherein he believes an error has been made.

Upon receipt of such application and in no case later than its next regular meeting, the Board shall examine the candidate's papers and grades. Any error or injustice shall be corrected, and any change in the order of standing of candidates as a result thereof shall be made by the Board. No appointments shall be made from the employment lists until the Board has acted upon such application. The Board's decision shall be final. (Ord. 866 § 12; November 24, 1958)

2.24.130 Conditions for Employment.

A. Applications. The Board shall have the right to require all applicants to submit applications, agreements, or statements pertinent to their employment.

B. Exempt Positions. Where there is no actual break in continuous service, an employee having probationary or regular status in a position in the system who is appointed to an exempt position, shall retain such status in the Civil Service position. Upon vacating the exempt position, the employee shall on his request be restored to his former status in the position unless the reason for such vacating is sufficient grounds for discharge from the City service as described in this chapter.

This provision shall not apply to an employee who resigns from a position in the system and, without a break in his continuous service with the City, is appointed to an exempt position. (Ord. 866 § 13; November 24, 1958)

2.24.140 Employee Appeals.

The Board shall convene in regular or special meetings for the purpose of reviewing appeals of regular employees as follows: Any regular employee in the system who has been suspended, demoted, or discharged may, within a period of five days after such action, request of the department head a written statement of the reasons for such action. The department head shall furnish such statement within five days thereafter. The employee may, within ten days thereafter, file a written answer to such reason with the Board. The Board shall within fifteen days investigate the case, and shall schedule a hearing. The hearing shall be a closed hearing at the request of the employee. (Ord. 866 § 14; November 24, 1958)

2.24.150 Grounds for Demotion, Suspension or Discharge.

Employees in the system may be demoted, suspended, or discharged only on the following grounds: Incompetency; inefficiency; dishonesty; misconduct; insubordination; or failure to observe departmental or City rules and regulations. (Ord. 866 § 15; November 24, 1958)

2.24.160 Board Hearings.

A. In General. Board hearings need not be conducted according to technical rules relating to evidence and witnesses.

B. Right to Counsel. The employee may be represented by counsel and shall have the right to produce witnesses to testify in his behalf. The Board shall issue subpoenas and compel the attendance of all witnesses.

C. Modification of Disciplinary Action. The Board may modify or revoke a disciplinary action only on the following grounds:

1. The facts do not justify the action taken.
2. Substantive violation or omission of procedure was made.
3. The action taken was unreasonable, capricious or arbitrary in view of the offense, the

circumstances surrounding the offense, and the past record of the employee.

D. Reimbursement. An employee shall be reimbursed for a loss of pay arising from a disciplinary action against him to the extent that it is subsequently revoked or modified by the Board. Reimbursement shall be confined to the period of time between the date of such disciplinary action and the date of the Board's final decision as set forth in Section 2.24.160.

E. Findings. The Board shall certify copies of its findings and decisions to the City Manager, the department head from whose action the appeal was made, and the appellant employee. The Board's decision shall be final. (Ord. 866 § 16; November 24, 1958)

2.24.170 Political Activities.

A. Prohibited. Any person occupying a position included in the system shall not:

1. Take an active part in a County of Orange or City political campaign.
2. Act as a worker at the polls or distribute badges, pamphlets, dodgers, or handbills of any kind favoring or opposing any candidate for election or nomination to a County of Orange or City office.

B. Unaffected. This chapter does not prohibit any person occupying a position included in the system from:

1. Becoming or continuing to be a member of a political club or organization.
2. Attending a political meeting.
3. Enjoying complete freedom from interference of any kind in casting his vote.
4. Seeking or accepting election or appointment to a public office while on leave of absence.
5. Seeking signatures to any initiative or referendum petition directly affecting his rates of compensation, hours of work, retirement, or other conditions of employment.
6. Distributing badges, pamphlets, dodgers or handbills, or other activities in connection with such petition if not carried on during his hours of work or when he is dressed in the uniform required in his City department. (Ord. 866 § 17; November 24, 1958)

2.24.180 Status of Prior Employees.

Any employee who, prior to November 29, 1958, attained probationary or regular status in the system shall retain such status. Employees in permanent positions in the Police and Fire Departments on such date who had not previously been considered as being in the system shall on such date be presumed to have completed their probation periods and shall acquire regular status in the system. (Ord. 866 § 18; November 24, 1958)

2.24.190 Conflicts with City Charter.

In the event of any conflict between this chapter and the City Charter, the provisions of the City Charter shall prevail. (Ord. 866 § 20; November 24, 1958)

2.24.200 Codification Conditions—Amendments.

Ordinance 866 may be codified by the City Council in a single chapter of the Newport Beach Municipal Code, but may not be repealed or amended except by a majority vote of the electors voting thereon at any general or special municipal election. A majority of two-thirds of the electors voting thereon is necessary for the approval of any amendment or repeal that withdraws any department, officer or employee from the system. (Ord. 866 § 21; November 24, 1958)

2.24.210 Penalty for Violation.

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1.04.010. (Ord. 866 § 22, 1958)

This page of the Newport Beach Municipal Code is current through Ordinance 2010-01, passed February 9, 2010.

Disclaimer: The City Clerk's Office has the official version of the Newport Beach Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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