

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending the)
Columbia County Civil Service) ORDINANCE NO. 95-10
Ordinance)
_____)

The Board of County Commissioners for Columbia County, Oregon, ordains as follows:

SECTION 1. TITLE.

This ordinance shall be known as Ordinance No. 95-10.

SECTION 2. AUTHORITY.

This ordinance is adopted under the authority of ORS 203.035 and 241.004.

SECTION 3. PURPOSE.

The purpose of this ordinance is to amend the Columbia County Civil Service Ordinance to change the qualifications required of persons appointed to the Civil Service Commission.

SECTION 4. FINDINGS.

1. The Columbia County Civil Service Ordinance was adopted May 24, 1995.
2. Section 3 of that Ordinance prohibits any person who holds any other public or official position from serving on the Civil Service Commission.
3. This restriction is deemed to disqualify too many valid candidates. Most persons willing and interested in public service become involved in more than one area.
4. A restriction disqualifying members of an employee's family from serving on the Commission is considered necessary. This should remove the potential for bias in decisions regarding employment issues brought before the Civil Service Commission.

SECTION 5. AMENDMENT OF CIVIL SERVICE ORDINANCE.

The Columbia County Civil Service Ordinance is amended to read as shown in the attached Exhibit "A" which is incorporated herein by reference.

SECTION 6. SEVERABILITY.

If any of the provisions of this Ordinance are for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision and such holding shall not affect the remaining portions hereof.

SECTION 7. EMERGENCY CLAUSE.

This Ordinance being immediately necessary to maintain the public health, safety and welfare, an emergency is declare to exist and this Ordinance shall take effect upon adoption.

REGULARLY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON, THIS 25th DAY OF OCTOBER, 1995.

Approved as to form

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: John K. Knight
Office of County Counsel

By: Paul A. Gabor
Chairperson

Attest:

By: William R. Midgall
Commissioner

By: Jan. Sunkalgh
Recording Secretary

By: Carolel Smith
Commissioner

First Reading: 10-25-95

Second Reading: 10-25-95

Effective Date: 10-25-95

EXHIBIT "A"

COLUMBIA COUNTY CIVIL SERVICE ORDINANCE

Adopted November 8, 1960
Amended May 24, 1995
Amended October 25, 1995

COLUMBIA COUNTY CIVIL SERVICE ORDINANCE

Section 1. Definitions.

As used in this Ordinance, unless the context otherwise requires:

- (1) "Appointing power" includes every person or group of persons who, acting singly or as a board, court or commission, are vested with authority to select, appoint or employ any person to hold any position subject to civil service under this Ordinance.
- (2) "Appointment" includes all means of selecting or employing any person to hold any position subject to civil service under this Ordinance.
- (3) "Board" means the Board of County Commissioners of Columbia County, Oregon.
- (4) "Chief Examiner" means the Human Resources Director of Columbia County, if any, or, if not, such other person as may be appointed by the Commission as Chief Examiner.
- (5) "Civil service" means the civil service system established under this Ordinance.
- (6) "Commission" means the Columbia County Civil Service Commission created under this Ordinance.
- (7) "Commissioner" means a member of the Civil Service Commission created under this Ordinance.
- (8) "Position" includes any office, place or employment.

Section 2. Civil Service Commission.

There is hereby created pursuant to this Ordinance a Civil Service Commission composed of three members appointed by the Board, who shall serve without compensation and shall devote due time and attention to their duties.

Section 3. Qualifications.

No person shall be appointed a member of the Commission who is not a citizen of the United States, a resident of Columbia County for at least three years immediately preceding the appointment and an elector of the County. None of the Commissioners shall hold any other public or official position for the government entity known as Columbia County. No person shall be appointed a member of the Commission who is an immediate family member to a current Columbia County employee. "Immediate family" means an employee's spouse, parents, children, step children, sisters, brothers, grandparents, grandchildren, father-in-law, mother-in-law, brothers-in-law, sisters-in-law, whether or not residing with the employee; and other close relatives or persons who regularly reside in the employee's household.

Section 4. Term of Office and Removal of Commissioners.

- (1) The term of office of each Commissioner is six years with the term of one Commissioner expiring every two years.
- (2) The Board may remove any Commissioner for incompetency, incompatibility, dereliction of duty, or other good cause.

Section 5. Quorum.

Two members of the Commission shall constitute a quorum and the votes of any two Commissioners concurring shall be sufficient for decision in all matters and transactions under this Ordinance.

Section 6. Chairperson; Meetings.

Immediately after the appointment of all of its members, the Commission shall elect a chairperson. The Commission shall hold such meetings as may be required for the proper discharge of its duties with a meeting at least once every 90 days and such additional meetings as are requested by any Commissioner. The Board, the Chief Examiner, and/or any person subject to civil service may request a special meeting of the Commission, which request shall be granted when good cause is shown therefor.

Section 7. Chief Examiner.

The Chief Examiner shall act as the Commission's secretary. The Chief Examiner shall keep records of the Commission's proceedings, preserve all reports made to it, superintend and keep a record of all examinations and investigations held or made under the direction of the Commission, and perform such other duties as it may prescribe. The Chief Examiner may appoint such person or persons, subject to approval of the Board, as may be necessary to assist him or her in these duties. The Chief Examiner shall receive such salary as the Board may fix.

Section 8. Office and Clerical Help for Commission.

The Board shall provide the Commission and Chief Examiner with suitable and convenient rooms and accommodations, and cause

the same to be furnished, heated, lighted and supplied with all office supplies and equipment necessary to carry on the business of the Commission. The Board shall also provide the Commission and Chief Examiner with such clerical assistance as may be necessary.

Section 9. Officers and Employees to Assist Commission.

All officers and employees of the County shall:

- (1) Aid in all proper ways in carrying out the provisions of this Ordinance and such rules as may, from time to time, be prescribed by the Board.
- (2) Afford the Commission, its members and employees, all reasonable facilities and assistance to inspect all books, papers, documents and accounts relating to positions subject to civil service.
- (3) Produce such books, papers, documents and accounts, and attend and testify, whenever required to do so by the Commission.

Section 10. Legal Representation of Commission.

The district attorney of the County shall be the legal advisor of the Commission and shall prosecute all violations of this Ordinance. However, the Board may, with the written consent of the district attorney of the County, employ special counsel for that purpose and may also employ special counsel to represent County elective officials in hearings before the Commission.

Section 11. Preservation and Destruction of Records.

(1) The Chief Examiner shall keep on file all examination papers and their markings, records of Commission hearings, and all other papers, documents and communications received by the Commission. Except for examination papers and their markings, all such reports and files of the Commission shall be public records and accessible at reasonable and convenient times in like manner as other public records except those public records which are exempt from disclosure under the Oregon Public Records Law. Examination papers shall be accessible only to the Commission, provided, that a person who takes an examination under the provisions of this Ordinance shall have access to his or her examination papers.

(2) The Chief Examiner shall retain and may destroy the public records described in subsection (1) of this section as follows:

(a) Original examination papers and their markings shall be retained for at least one year and thereafter may be destroyed if microfilmed copies are retained.

(b) Original or microfilmed copies of records of Commission hearings and all other papers, documents and communications shall be retained for at least four years and thereafter may be destroyed.

Section 12. Personnel Ordinance; Personnel Rules.

(1) The Board shall adopt a Personnel Ordinance, and may adopt suitable Personnel Rules, not inconsistent with this Ordinance, to carry out the provisions of this Ordinance. The Personnel Ordinance and Rules shall provide in detail the manner in which examinations shall be held, and appointments, promotions, transfers, reinstatements, suspensions and dismissals shall be made. The Personnel Ordinance and Rules may be changed from time to time, and the same, together with all changes, shall be available for distribution.

(2) The Board shall, not less than seven (7) days prior to the date when the Personnel Ordinance shall take effect, or any amendments thereto, give notice, in a newspaper printed and published in the County and having a general circulation therein, of the proposed adoption of the Personnel Ordinance, or any amendment thereto.

Section 13. Investigations.

(1) The Commission may, upon its own initiative, or upon the request of the Board, any employee subject to civil service, or any resident of the County, make any investigation which it deems advisable to enable it to carry out the provisions of this Ordinance which are the responsibility of the Commission.

(2) The Commission shall make a public report upon all matters investigated under this Ordinance.

Section 14. Oaths and Subpoenas.

In the course of an investigation, the Commission may administer oaths, subpoena and require the attendance of 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 subpoena within Columbia County.

Section 15. Depositions.

The Commission may, in any investigation or hearing, cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil suits and actions in the circuit court. To that end, the Commission may compel, by subpoena, the attendance of witnesses and the production of books, papers, documents and accounts.

Section 16. Enforcement.

The circuit court in the County may compel the attendance of witnesses, the giving of testimony, and the production of books, papers, accounts and documents, as required by any subpoena duly issued by the Commission, under this Ordinance, and may punish the disobedience of such witnesses as a contempt.

Section 17. Conduct of Hearings and Investigations.

All hearings and investigations before the Commission are governed by this Ordinance and by the Personnel Ordinance and the Personnel Rules adopted by the Board. In the conduct thereof, the Commission is not bound by the technical rules of evidence.

Section 18. Conclusiveness of Orders.

The findings of the Commission shall be certified in writing to the appointing power and, based upon the Commission's authority in relation to the process of examination and appointment, the Commission's order shall be immediately enforced. No informality in any proceeding or hearing, or in the manner of taking testimony before the Commission, shall invalidate any order, decision or rule made, approved or confirmed by the Commission.

Section 19. Witness Fees.

Every person served with a subpoena requiring his or her attendance before the Commission shall be entitled to the same fees and mileage as are allowed by law to witnesses in civil suits and actions, except that no person shall be entitled to any fees or mileage who is employed in the public service of Columbia County. The fees and mileage allowed by this section need not be prepaid but the Board shall provide for payment thereof when certified by the Commission.

Section 20. Positions Subject to Civil Service.

Appointees to positions in the public service of the County are subject to civil service, except the following:

- (1) Any officer chosen by popular election or appointed to fill a vacancy caused by the death, resignation or removal of any officer chosen by popular election.
- (2) Any official, reporter, bailiff or crier subject to appointment by any justice of the peace.
- (3) Any person employed to perform manual labor, skilled or unskilled, in the construction, maintenance and repair of County property; provided, that electrical workers, members of road and bridge crews and laborers permanently employed shall be subject to civil service unless otherwise provided in this Ordinance.
- (4) Any special deputy sheriff or deputy constable appointed to act without compensation from the County.
- (5) Any member of the Columbia County Civil Service Commission.
- (6) Any deputy district attorney, county counsel or assistant county counsel.
- (7) Any doctor, nurse, intern or superintendent or other executive officer employed by, in or at the County hospital or any home maintained by the County for the detention or care of juveniles.
- (8) Any department head or director of a County department, except the person holding the position of Chief Examiner.
- (9) Any temporary, part-time or seasonal employee.
- (10) Any administrative assistants to the Board.
- (11) Any undersheriff, deputy undersheriff or administrative aide to a sheriff.
- (12) Any other position exempted from civil service by the Commission.

This Section is not meant to preclude the designation of unclassified positions by the Board. A position in the unclassified service is defined as a position which has not been included in the classified service but not specifically exempted by the Commission. A position may be designated as unclassified only if the duties of that position indicate a similarity to the intent behind the exemptions listed above.

Exempt and unclassified positions are subject to the provisions of Section 33 of this Ordinance.

Section 21. Basis of Appointment and Promotion Generally.

Except as otherwise expressly provided in this Ordinance, the appointment and promotion of all persons to or in all civil service positions shall be made solely upon merit, efficiency, and fitness, which shall be ascertained by open competitive examination and impartial investigation.

Section 22. Creation of Positions and Fixing of Compensation.

All civil service positions in the County shall be created by the Board of County Commissioners. The Board shall fix the compensation of all civil service positions. In the creation of each civil service position, and in determining the amount of compensation thereof, due consideration shall be given to the recommendation of the Civil Service Commission and the appointing

power.

Section 23. Classifications.

- (1) The Commission shall review and adopt the Classification Plan prepared by the Chief Examiner. The classifications shall be based upon the functions of the positions.
- (2) The classifications may, from time to time, be amended, added to, consolidated or abolished by the Chief Examiner, but no person holding any position under any established classification shall be affected by such change so as to deprive him or her of any of the benefits attached to the classification applicable to the position then held by that person. No person shall be promoted or advanced to a higher classification by such change without being eligible for appointment to such higher classification by reason of his or her position on the promotion register. The positions so classified and graded shall constitute the classified civil service of the County.

Section 24. Examinations; Notice.

- (1) The Chief Examiner shall, from time to time, hold public competitive examinations to ascertain the fitness of applicants for all positions in the civil service.
- (2) Notice of the time, place and general scope of every entrance examination shall be given by publication in a newspaper of general circulation in the County. Notices shall be posted in at least three public places in the County, one of which shall be the Chief Examiner's office, for not less than two weeks prior to the examination.
- (3) Except where other arrangements are made, the Chief Examiner shall supervise all examinations and shall designate the persons who shall act as examiners at any examination.

Section 25. Character of Examinations.

- (1) All examinations shall be practical in character and shall relate only to those matters which fairly test the relative fitness of persons examined to discharge the duties of the positions for which they are applicants. Examinations shall include, when appropriate, tests of health and physical qualification, and of manual, clerical or professional skill.
- (2) No question in any examination shall relate to political or religious preference, affiliation, opinion or services or any other matter prohibited by federal or state law.

Section 26. Promotional Examinations.

Promotional examinations shall be given to those who desire to offer themselves for such examination and are in the qualified classifications as determined by the Chief Examiner. The rules adopted for examination of applicants for promotion shall, as nearly as may be, follow the rules governing the examination of applicants for original appointment.

Section 27. Registers.

The Chief Examiner shall prepare and keep a register for each classification in the civil service of all persons whose general average standing upon examination for such classification is not less than a minimum fixed by the Chief Examiner and who are otherwise eligible. Such persons shall take rank upon the register, as candidates, in the order of their relative standing as determined by examination. Candidates of equal standing shall take rank upon the register according to the order in which their applications were filed. The Commission may, by rule, provide for striking candidates from the list after they have remained thereon for a specified time, and may limit the number of times the same candidate shall be certified to the appointing power.

Section 28. Certifications.

Whenever there is a vacancy in any position in the civil service, the appointing power shall immediately notify the Chief Examiner of the vacancy. The Chief Examiner shall thereupon certify to the appointing power:

- (1) The number of names certified from the entrance list shall be five (5) and two (2) additional names shall be certified for each additional vacancy, plus the names of all individuals who have the same whole number base score as the individual ranking lowest on the certification.
- (2) The number of names certified from the promotional list shall be three (3) and one (1) additional name shall be certified for each additional vacancy, plus the names of all individuals who have the same whole number base score as the individual ranking lowest on the certificate.

Section 29. Probationary Appointments.

- (1) The appointing power shall appoint one of the certified candidates to the vacant position. The person appointed shall be on probation for a period of twelve (12) months. If the appointing power considers the certified candidates unqualified for the vacant position, he or she may reject the names of the certified candidates for appointment by submitting a written statement of the reasons

for the rejection to the Chief Examiner. The Chief Examiner shall investigate and decide on the validity of the reasons submitted.

(2) If the rejection of the appointing power is approved by the Chief Examiner, the Chief Examiner shall immediately certify to the appointing power the name of the next eligible candidate standing highest upon the register for the classification to which the position belongs and return the name of the rejected candidate to the same position on the eligible register from which the candidate was certified. The appointing power and the Chief Examiner shall proceed in this manner for all rejected candidates until a qualified candidate is found for the vacant position.

(3) If the rejection of the appointing power is not approved by the Chief Examiner, the Chief Examiner shall immediately notify the appointing power, in writing, that the reasons for rejection of the qualified candidate or candidates are not sufficient for rejection, and upon receipt of this notice from the Chief Examiner, the appointing power shall immediately reconsider the certified candidate in question to the position for which he or she was originally certified.

(4) If the person on probation is a new appointee, the appointing power may dismiss that person without regard to Sections 35 through 40 below and in a like manner appoint another certified candidate and so continue until a qualified candidate has been found.

(5) If the person on probation has been promoted, the appointing power may demote such person during the probationary period without regard to Section 35 through 40 below and in a like manner appoint another certified candidate and so continue until a qualified candidate has been found.

(6) If a person who has taken a promotional examination and been appointed to a position in a higher classification on probation, fails to qualify for the position in the higher classification within the probationary period, no seniority will be lost in the lower classification from such promotion was made but such person shall return to employment and be reinstated in the position previously held in such lower classification.

Section 30. Regular Appointments.

The appointing power shall make appointments from the list of candidates certified unless, for reasons assigned in writing by the appointing power, the Chief Examiner consents to and certifies a new list of candidates. If any probationer is not discharged during the period of probation, that period shall end and the appointment shall be deemed regular. Regular appointments shall be subject to Sections 35 through 40 below.

Section 31. Provisional Appointments.

When there is no candidate upon the entrance register from which a position may be filled, the appointing power may, with the consent of the Chief Examiner, fill such position by provisional appointment. A provisional appointment shall not continue for more than three (3) months nor shall successive provisional appointments be made to the same position without the previous consent of the Chief Examiner.

Section 32. Transfers and Reinstatements.

(1) The appointing power may authorize the transfer or reinstatement of any person holding one position to a similar position in the same classification.

(2) The appointing power may provide for the reinstatement within one year of persons separated from positions in the civil service without fault or delinquency on their part, if within that time there is need for their services.

(3) No transfer or reinstatement shall be made from a position in one classification to a position in another classification, nor shall a person be transferred to or reinstated in a position for entrance to which there is an examination required involving essential tests or qualifications different from or higher than those required for original appointment to the position held by such person.

Section 33. Non-Discrimination.

No question in any written or oral test, on any application form, or by an appointing power shall be so framed as to attempt to elicit information concerning race, color, ancestry, national origin, sex, sexual orientation, marital status, age, religion, military reservist status, disability or political affiliations for the purpose of discrimination. No decision affecting the employment status of any employee of Columbia County shall be made for discriminatory purposes based upon any information connected to the items listed above in this Section, unless required for bona fide occupational qualifications. This shall not prevent the Chief Examiner from obtaining data necessary for Equal Employment Opportunity Commission compliance or Affirmative Action Program information.

Section 34. Suspensions.

An appointing power may, without hearing or trial, peremptorily suspend an employee for cause for a reasonable period, not exceeding 30 days, with loss of salary or other compensation. No suspension shall be made except upon written charges served upon the accused and filed with the Commission, with the privilege to the accused of serving upon the appointing power a written answer and explanation of such charges, and filing a copy of the same with the Commission. No suspension made by any appointing power pursuant to this Section shall be subject to review by the Commission. No appointing power may suspend the

same subordinate more than twice, or for a total of more than 45 days, during any one year.

Section 35. Causes for Dismissal.

The employment of a person holding a position under the provisions of this Ordinance shall continue only during good behavior. Any person may be dismissed for any of the following causes:

- (1) Incompetency, inefficiency or inattention to or dereliction of duty.
- (2) Dishonesty, intemperance, immoral conduct, insubordination or discourteous treatment of the public or of fellow employees.
- (3) Any other willful failure of good conduct tending to injure the public service.
- (4) Any willful violation of the provisions of this Ordinance or the Personnel Ordinance or the Rules adopted pursuant thereto.

Section 36. Dismissal Only for Cause.

No person subject to civil service who has successfully completed the probationary period for an appointment shall be dismissed except for cause, and then only upon the signed written accusation of the appointing power. A written statement of the accusation in general terms shall be served upon the accused and a duplicate filed with the Chief Examiner.

Section 37. Investigation of Dismissal.

An employee who has successfully completed the probationary period for an appointment who has been dismissed may, within 10 days of the date of dismissal, file with the Commission, a signed written demand for an investigation. If the demand alleges, or if it otherwise appears to the Commission, that the dismissal was not made in good faith for cause, the Commission shall conduct an investigation and hold a public hearing, such hearing to be within 30 days from the time the appeal is filed. The former employee may be represented by counsel or any representative of his or her own choosing. The investigation shall be confined to the determination of the question of whether the dismissal was or was not made for political or religious reasons or because of reasons of age as described in ORS Chapter 659 and was or was not made in good faith for cause. The burden of proof shall be upon the dismissed person.

Section 38. Right to Hearing and Representation.

All investigations pursuant to Section 37 shall be by public hearing after reasonable notice to the former employee of the time and place of such hearing. At the hearing, the former employee shall be afforded an opportunity of appearing in person and by counsel, and presenting the defense of the former employee. However, the right of the former employee to a public hearing and to representation by counsel shall not apply to any preliminary trial or hearing before the appointing power who effected the dismissal.

Section 39. Order of Commission on Review.

After an investigation and public hearing, the Commission may affirm or modify the action taken by the appointing power, or if it finds that the dismissal was made for political or religious reasons or because of reasons of age as described in ORS Chapter 659 or was not made in good faith for cause, the Commission shall order the immediate reinstatement of the employee in the position from which he or she was dismissed. Reinstatement shall be retroactive and entitle the dismissed employee to pay or compensation from the time of dismissal. The Commission, upon investigation, in lieu of affirming the dismissal, may modify the order of dismissal, by directing a suspension without pay for a given period, and a subsequent restoration to duty, or a demotion in classification, grade or pay. The findings of the Commission shall be certified in writing to the appointing power and immediately enforced.

Section 40. Writ of Review.

Any former employee who is dissatisfied with a decision by the Commission made pursuant to Section 39 above, may petition for a writ of review from the circuit court of the County pursuant to ORS 34.010 through ORS 34.100.

Section 41. Political and Religious Activity.

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 person 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 valuable thing for any political or religious purpose.

Section 42. Penalties.

Willful violation of any of the provisions of this Ordinance is punishable as provided by ORS 241.990.