

Chapter 48

PERSONNEL MERIT SYSTEM*

* **Charter References:** Authority of council to establish a personnel merit system for city employees, § 6-15.
Cross References: Personnel hearing board, § 6-221 et seq.; retirement system, ch. 60.

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ARTICLE I.

IN GENERAL

Sec. 48-1. Short title.

This chapter shall be known and may be cited as the City Merit System Ordinance.
(Code 1971, § 14-1)

Sec. 48-2. Purpose.

The purpose of this chapter is to guarantee to all citizens a fair and reasonable opportunity for public service; to establish conditions of service which will attract persons of character and capacity and to increase the efficiency of the governmental departments and agencies by the improvement of methods of personnel administration.
(Code 1971, § 14-2)

Sec. 48-3. Definitions.

The following terms, when used in this chapter, shall have the following meanings, unless the context clearly requires otherwise:

Appointing authority means the person or group of persons having the power by virtue of the Charter, an ordinance, or lawfully delegated authority to make appointments.

Appropriate list means any employment list, promotion list, or reemployment list, which is declared appropriate by the division chief for purposes of certification and appointment.

City service means all offices and positions of employment in the service of the city.

Chief of the division means the head of this division.

Classified employee means any person holding a position in the classified service.

Classified service means all offices and positions of trust or employment in the city service except those placed in the unclassified service by this chapter or any other ordinance.

Disabled veteran means any war veteran who is an examinee and who is certified by the Veterans' Administration of the United States to be disabled as a result of a service-connected disability, with a disability rating of zero percent or more.

Division means the division of personnel.

Employee means any person holding a position subject to appointment by an appointing authority.

Employment list means a list of names of persons arranged in the order of their ratings who have been found qualified through suitable tests, and who are entitled to have their names certified to appointing authorities for original appointment under the provisions of article III of this chapter.

Position means any office or place of employment in the city service.

Promotion list means a list of names of classified employees arranged in order of their ratings, who have been found qualified through suitable tests for promotion to positions in other classes under the provisions of article III of this chapter.

Public hearing means an opportunity for any citizen or party to appear and be heard on the matter involved after five days' public notice advertised in a newspaper of local distribution. The public notice will contain the time, date and place of the public hearing as well as the specific changes affecting the classification and/or pay plan of the merit system ordinance.

Reemployment list means a list of names of persons who have occupied positions in the classified service, who have been separated from a position in the classified service, and who are entitled to have their names certified to appointing authorities under the provisions of article III of this chapter.

War veteran and *veteran* mean any person, male or female, who was employed as an officer, member of the enlisted personnel or otherwise in the active military or naval service of the United States or any auxiliary unit of such military or naval service, except civilian employees, during the periods set forth in the General Laws of 1956, as amended; provided, however, that such definition shall not include any person who has been separated from such employment or service, except through honorable discharge, if the reason for such separation shall be deemed by the chief of the division to be sufficient cause to deny such inclusion.

(Code 1971, § 14-3)

Cross References: Definitions generally, § 1-2.

Sec. 48-4. Compliance with federal and state standards.

The provisions of this chapter or of the personnel rules shall not apply in each instance where it is contrary to merit standards established by the federal and state government or any agency thereof where compliance with such merit standards is a condition precedent to the granting of federal and state funds to the city or any agency thereof.

(Code 1971, § 14-4)

Sec. 48-5. Penalty.

Any person violating any of the provisions of this chapter or the rules established in accordance with this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1-4. Any person holding a position in the classified service so convicted shall be dismissed from the service forthwith.

(Code 1971, § 14-6)

Secs. 48-6--48-30. Reserved.

ARTICLE II.

ADMINISTRATION

Sec. 48-31. Personnel division established; appointment and salary of chief of division of personnel.

There is hereby established within the corporate structure of administration of the city, as provided by the Charter of the city, a division of personnel within the executive department. The head of this division shall be known as the chief of the division of personnel. Such chief shall be in the classified service and his/her salary shall be established in accordance with the terms of the pay plan for classified employees. He/she will be appointed by the mayor.

(Code 1971, § 14-17)

Sec. 48-32. Powers and duties of chief of division of personnel.

In addition to the duties imposed upon him/her elsewhere in this chapter and in the personnel rules, it shall be the duty of the chief of the division:

- (1) As executive head of the division of personnel, to direct and supervise all of its administrative and technical activities.
- (2) To prepare and recommend to the mayor of the city such rules as are deemed necessary to carry out the provisions of this chapter.
- (3) To supervise the operation of the classification plan and to recommend to the mayor amendments and additions thereto.

- (4) To supervise the operation of the pay plan and to recommend to the mayor of the city amendments and additions thereto.
- (5) To establish and supervise the maintenance of employment lists, promotion lists and reemployment lists.
- (6) To perform any other lawful act which he/she may consider necessary or desirable to carry out the purposes and provisions of this chapter, and the rules.

(Code 1971, § 14-18)

Sec. 48-33. Adoption of rules.

(a) The chief of the division shall recommend such rules as he/she may consider necessary, appropriate, or desirable to carry out the provisions of this chapter and may from time to time recommend amendments thereto. When such rules are recommended by the chief of the division, the mayor may hold a public hearing thereon, and shall have power to approve or reject the recommendations of the chief of the division wholly or in part or to modify them and approve them as so modified.

(b) Rules adopted under this section shall have the force and effect of law.

(Code 1971, § 14-19)

Sec. 48-34. Facilities for division of personnel.

The division of personnel shall be provided with suitable offices, examination rooms, and accommodations for itself and staff in the city as may be required to suit the public convenience and carry on the work of the division. It shall be the duty of the officers of the city, or any political subdivisions thereof, in all proper ways to facilitate the work of the division in carrying out the provisions of this chapter.

(Code 1971, § 14-20)

Sec. 48-35. Legal assistance to division of personnel.

The city solicitor shall advise and assist the division of personnel and shall prosecute violations of all ordinances relating to the division.

(Code 1971, § 14-21)

Sec. 48-36. Workers compensation trust fund.

(a) *Created; purpose.* There shall be created a workers compensation trust fund, which shall be an irrevocable trust between the city and its director of finance to pay workers compensation claims and other expenses arising out of injuries to city employees in the course of their employment by the city.

(b) *Covenants of trust.* The trust shall be governed by the workers compensation trust dated 1997.

(c) *Funding.* The trust shall be funded from the excess funds held in the city's account related to workers compensation.

(Ord. No. O-97-11, § I, 6-9-97)

Editors Note: Section I of Ord. No. O-97-11, adopted June 9, 1997, amended the Code by adding §§ 83-1--83-3. For purposes of classification, such provisions were codified herein as § 48-36 at the discretion of the editor.

Sec. 48-37. Advertisement of jobs.

When filling a vacancy for any full-time classified job, which is available to the general public, the director of personnel shall advertise such job in a newspaper of general circulation in the city. The advertisement shall include a brief job description, necessary qualifications, and the range of salary.

(Ord. No. O-98-20, § I, 6-8-98)

Editors Note: Section I of Ord. No. O-98-20, adopted June 8, 1998, amended Ch. 48 by adding § 48-36. Inasmuch as § 48-36 already existed in the Code, such new provisions were designated by the editor as §48-37.

Secs. 48-38--48-60. Reserved.

ARTICLE III.

PERSONNEL REGULATIONS

Sec. 48-61. Divisions of city service.

The city service shall be divided into a classified service and an unclassified service.
(Code 1971, § 14-36)

Sec. 48-62. Positions in unclassified service.

The classified service shall comprise all positions in the city service now existing or hereafter established, except the following specific positions which with other positions heretofore or hereafter specifically exempted by council act shall constitute the unclassified services:

- (1) Officers and board and council members elected by popular vote and persons appointed to fill vacancies in elective offices.
- (2) Officers, secretaries and employees of the office of the mayor.
- (3) Members of boards and commissions appointed by the mayor or the city council and members of the board of canvassers, and directors of departments.
- (4) The following specific offices:
 - a. City treasurer.
 - b. City clerk.
 - c. City assessor.
 - d. Chief clerk, canvassers.

- e. City planner.
- f. Building inspector.

The purchasing agent and the city engineer holding the offices deleted hereby shall have status as present employees under the provisions of former section 14-5.

- (5) One confidential stenographic secretary or clerk for each director of a department and each board and commission appointed by the mayor.
- (6) Special counsel, special prosecutors, regular and special assistants appointed by the city solicitor and employees of his/her office, and members of the Rhode Island Bar occupying a position in the city service as legal counsel to any appointing authority.
- (7) All employees of the police, fire and school departments except civilian employees of the police and fire departments.
- (8) Judges, referees, receivers, clerks, assistant clerks and clerical assistants of the courts, jurors and any persons appointed to clerical positions by any court within the jurisdiction of city.
- (9) Election officials and employees.
- (10) Persons employed to make or conduct a temporary and special inquiry, investigation or examination on behalf of the city council or a committee thereof, or on behalf of any agency of the city.
- (11) All personnel otherwise excluded by state law.
- (12) All persons employed under the provisions of the Economic Opportunity Act of 1964 (Public Law 88-452), as amended, popularly known as the Federal Anti-Poverty Programs.

(Code 1971, § 14-37; Ord. No. O-93-28, § I, 11-8-93)

Sec. 48-63. Branches of classified service.

The classified service shall be divided into a competitive branch and a noncompetitive branch. The competitive branch shall consist of all positions in the classified service except those assigned to the noncompetitive branch as hereinafter provided.

(Code 1971, § 14-38)

Sec. 48-64. Positions classed as noncompetitive.

The noncompetitive branch shall include only such classes of positions as require the performance of routine laboring, custodial or domestic tasks and are subject to close and continued supervision.

(Code 1971, § 14-39)

Sec. 48-65. Assignment of positions to noncompetitive branch; transfer to competitive branch.

No class of positions shall be assigned to the noncompetitive branch unless such assignment has been recommended by the chief of the division, and the mayor has held a public hearing thereon, and as a result of such public hearing has approved such assignment. A class of positions may be transferred from the noncompetitive branch to the competitive branch in the same manner.

(Code 1971, § 14-40)

Sec. 48-66. Appointment to noncompetitive branch.

Appointments to positions in the noncompetitive branch shall be designated as noncompetitive appointments and shall be made upon recommendation of the appointing authority and approval of the chief of the division subject to established requirements for character and physical and mental skills needed to perform the essential functions of the job. Persons appointed to such positions must be citizens of the United States and must have resided in the city for at least one year prior to the date of appointment, except that the chief of the division may waive these requirements upon recommendation of an appointing authority when it is not possible to secure the services of persons meeting these requirements.

(Code 1971, § 14-41)

Sec. 48-67. Probationary period in noncompetitive branch; acquisition of full status.

Persons appointed to positions in the noncompetitive branch shall serve a probationary period of six months, during which time the appointing authority shall report to the chief of the division every 60 days concerning the work of the employee, and at the end of the probationary period no further salary or other compensation shall be paid to such employee unless the appointing authority has filed with the chief of the division a statement, in writing, that the services of the employee have been satisfactory and that it is desired that his/her services be continued. Upon completion of such probationary period and receipt of such statement of satisfactory service by the chief of the division and having fulfilled the requirements for character and physical and mental skills needed to perform the essential functions of the job, the employee shall be deemed to have acquired full status. Whenever a class of positions shall be assigned to the noncompetitive branch, every employee holding a position in such class at the time of assignment who is a temporary employee and has served in such class for six months or more shall be considered to have completed the required probationary period, and upon receipt of a statement from his/her appointing authority that his/her services have been satisfactory shall be deemed to have acquired full status and shall enjoy all the rights and privileges of such status. A temporary employee who has served at least four months but has not completed six months shall be deemed to have served four months of the required probationary period, and his/her appointing authority shall submit a report concerning the work of such employee to the chief of the division and shall at the end of 60 days submit a final probationary report for such employee. An employee who has served at least two months but has not completed four months shall be deemed to have served two months of the required probationary period, and his/her appointing authority shall submit a report concerning the work of such employee to the chief of the division and shall subsequently submit a probationary report at the end of the next 60 days and final probationary report at the end of six months of service.

(Code 1971, § 14-42)

Sec. 48-68. Adoption of classification plan.

The chief of the personnel division shall, after consultation with appointing authorities and principal supervising officials, classify all of the positions in the classified service according to the duties and responsibilities of each position. The plan of classification shall designate an appropriate title for each class of position and shall indicate the education, experience, capacity, knowledge, skill and other qualifications to be required of persons appointed to positions in each class. The complete classification plan shall be so arranged that all positions that are substantially similar with respect to authority, responsibility, and character of work are included within the same class and that the same pay schedules can be made to apply with equity under like working conditions. The class titles so established shall be used in all personnel, accounting budget, appropriation and financial records of all city departments, commissions and institutions.
(Code 1971, § 14-43)

Sec. 48-69. Changes in classification plan; notice of establishment of new positions.

Additional classes may be established and existing classes may be divided, combined, altered or abolished upon recommendation of the chief of the personnel division, and approval of the mayor after a public hearing. Such action may be initiated either by the chief of the division or the mayor, or on request of an appointing authority. Appointing authorities intending to establish new positions shall so notify the chief of the division, and, except as otherwise provided in this chapter, no person shall be appointed to or employed for any such position until it has been properly classified as herein provided and an appropriate list established therefor.
(Code 1971, § 14-44)

Sec. 48-70. Allocation of positions to classes within plan.

After the adoption of the classification plan by the mayor after public hearing, the chief of the division shall allocate every position in the classified service to one of the classes established by the plan. Thereafter, whenever new positions are authorized and created, whenever the duties and responsibilities of existing positions change, or whenever the classification plan is amended, the chief of the division shall allocate or reallocate the affected positions and shall determine the status of employees affected by such action in accordance with the personnel rules.
(Code 1971, § 14-45)

Sec. 48-71. Submission of proposed pay plan for classified service.

The chief of the personnel division shall submit to the mayor a proposed pay plan showing for each class of position in the classified service minimum and maximum salary rates and such intermediate rates as he/she deems desirable. In arriving at such rates he/she shall take into consideration the advice and suggestion of appointing authorities and other supervising officials, prevailing rates for comparable service in other public employment and in private business, the current cost of living, and the city's financial policies, conditions and appropriations.
(Code 1971, § 14-46)

Sec. 48-72. Adoption of pay plan.

After reasonable opportunity to be heard has been given to employees, appointing authorities, and the general public, and after incorporating any modification, change or amendment he/she considers desirable, the mayor shall approve and adopt the pay plan with such changes as he/she deems necessary and order its

application to all positions in the classified service. When the mayor has adopted the pay plan, it shall constitute the official pay schedule for positions in the classified service; thereafter, no person in the classified service shall be paid a salary that is greater than the maximum or less than the minimum rates fixed in the approved pay plan or by amendments thereto, or by the personnel rules.

(Code 1971, § 14-47)

Sec. 48-73. Changes in pay plan for classified service; new classes.

Pay rates shall be established for new classes of positions, and amendments to the existing pay plan may be made upon recommendation of the chief of the personnel division, approved by the mayor after a public hearing. Such action may be initiated by the mayor or the chief of the division, or at the request of an appointing authority.

(Code 1971, § 14-48)

Sec. 48-74. Pay plan and regulations as to unclassified service.

The chief of the personnel division shall submit to the mayor a proposed pay plan and regulations therefor for unclassified employees. After reasonable opportunity has been given to employees, appointing authorities and the general public and after incorporating any modification, change, or amendment he/she considers desirable, the mayor shall adopt the plan and order its application to the positions in the unclassified service. When the mayor has adopted the pay plan and regulations, they shall constitute the official pay schedule for positions in the unclassified service, and thereafter no person in the unclassified service shall be paid a salary that is greater than the maximum or less than the minimum rates fixed by the approved pay plan and regulations or by amendments thereto.

(Code 1971, § 14-49)

Sec. 48-75. Preparation of employment lists.

The chief of the personnel division shall, as in his/her estimation the need requires, prepare for the several classes of positions in the classified service lists of persons eligible for original appointment to positions in such classes. Each employment list shall include the names of those persons who have shown by competitive tests that they possess the qualifications which entitle them to be considered eligible for appointment to any position in the class or classes for which the list is prepared.

(Code 1971, § 14-50)

Sec. 48-76. Competitive tests.

The competitive tests shall be designed to determine fairly the capacity of the persons examined to perform the duties of the positions in the classes for which the lists are prepared. In the giving of the test, the chief of the division or persons designated by him/her shall give special service in reading the tests to blind persons and other reading-impaired persons and in recording their replies, and time limits established for the tests shall be adjusted to compensate for the time consumed by blind persons in taking the tests through the special services. The chief of the division or person designated by him/her shall arrange for interpreters for the deaf when giving tests which are oral or in which the instructions are given orally. The competitive tests shall be open to applicants who have been residents of the city for one year immediately prior to the announced closing date for filing applications; provided that the chief of the personnel division may admit to competitive

tests for technical, professional, or unusual positions residents of other cities or states. Any resident denied admission to an examination on the grounds of insufficient qualifications as established in the class specifications involved may, within five calendar days of the mailing of such notice, appeal in writing to the mayor for a hearing or review of said denial. On the basis of such review or hearing, the mayor may direct the chief of the division to permit the appellant to take the examinations. The test may take into consideration elements of character, education, aptitude, experience, knowledge, skill, personality, physical and mental abilities needed to perform the essential functions of the job and other pertinent matters, and may be written, oral, physical, or in the form of demonstration of skill or any combinations of such types; provided that the method used shall adequately reflect the applicant's ability to perform the essential functions of the job in question, rather than the applicant's impaired sensory, manual, or speaking skills, except where such skills are essential requirements of the job. Public notice of every test shall be given in the manner prescribed by the personnel rules. Persons having a legitimate and proper interest in examination questions used in connection with any examination shall be freely allowed to inspect such questions, when all phases of the examination in which such questions were used have been completed, under such conditions as shall be specified in the personnel rules. The final earned rating of each person competing in any test shall be determined by the weighted average of the earned ratings on all phases of the test, according to weights for each phase established by the chief of the division, in advance of the giving of the tests and published as a part of the announcement of the examination. However, the chief of the division may discontinue the examination process for any competitor when it has been determined that the required minimum final earned rating cannot be attained. All persons competing in any test shall be given written notice of their relative standing on the employment list. (Code 1971, § 14-51)

Sec. 48-77. Placement of names on employment lists; listing of veterans.

The names of all persons attaining the minimum final earned rating established by the chief of the personnel division shall be placed upon the employment list in the order of their ratings; provided, however, there shall be added to the final earned ratings of examinees who are veterans in competitive tests for entrance into the classified service, but not for promotion in the service, who receive at least the minimum required final earned rating as stated in the public notice, service credits amounting to five points for veterans or service credits amounting to ten points for disabled veterans. On all employment lists the letter "V" shall be placed opposite the name of each veteran as defined in this chapter, who, by reason of his/her final earned rating, is entitled to have his/her name placed on an employment list, and the letters "DV" shall be placed opposite the name of each disabled veteran, as defined in this chapter, who by reason of his/her final earned rating is entitled to have his/her name placed on such list.

(Code 1971, § 14-52)

Sec. 48-78. Duration of employment lists.

Each employment list shall remain in force until exhausted, until replaced or combined with a more recently prepared list or until two years from the date of its preparation, except that the chief of the personnel division may extend the duration of any list for a period not to exceed one year.

(Code 1971, § 14-53)

Sec. 48-79. Open continuous competitive tests.

The chief of the personnel division may use open continuous competitive tests to establish lists and fill

vacancies in an agency or agencies where there is a continued shortage of available qualified persons. Open continuous competitive tests shall be subject to the conditions established in this chapter for the preparation of employment lists.

(Code 1971, § 14-54)

Sec. 48-80. Promotion lists.

Promotional examinations shall be conducted in the same manner as open competitive examinations subject to the conditions specified in the personnel rules. Promotion lists shall remain in effect until exhausted or until combined with or replaced by a more recently prepared list.

(Code 1971, § 14-55)

Sec. 48-81. Reemployment list.

Any person who holds full status in the classified service and resigns in good standing shall be entitled to have his/her name placed on an appropriate reemployment list, provided that such a person so requests in writing within three years of the date of his/her termination from the city service. Any person who has held full status in the classified service and has been laid off shall have his/her name placed on an appropriate reemployment list as of the date of his/her termination. Any person with full status who has resigned and whom the appointing authority has failed to certify that he/she has resigned in good standing or any person with full status who has been dismissed from the classified service may request in writing within three years of the date of his/her termination that his/her name be placed on the appropriate reemployment list, and such request may be granted at the discretion of the chief of the personnel division. Each name placed on a reemployment list shall be stricken therefrom at the expiration of three years from the official termination date.

(Code 1971, § 14-56)

Sec. 48-82. Removal of disqualified names from lists.

The chief of the personnel division may remove the name of any person from any list or lists who is physically incapable of performing the essential job functions with or without reasonable accommodation or who has made a false statement of material fact in his/her employment application.

(Code 1971, § 14-57)

Sec. 48-83. Designation of appropriate list for filling of vacancies.

Vacancies in positions in the classified service shall be filled as far as practicable by promotional appointments. Whenever a vacancy does exist in any position in the classified service, the appointing authority may choose to use either the employment, promotion, or reemployment list to fill the vacancy and shall request the chief of the personnel division to certify the names of persons eligible for appointment from the designated lists.

(Code 1971, § 14-58)

Sec. 48-84. Certification and appointment to positions in classified service.

If the appointing authority has designated the employment list, the chief of the personnel division shall immediately certify the names of the three persons standing highest thereon who are available for appointment,

if there be as many as three such names thereon, or all the names on the list if there are less than three. If any of the eligibles notifies the chief of the division that he/she is unavailable for appointment, another name shall be certified to the appointing authority. The appointing authority shall appoint one of the persons so certified to the position in accordance with the provisions of the personnel rules. If he/she has designated the promotional list, certification shall be made in the manner prescribed for the employment list. If he/she has designated the reemployment list, the names of all available eligibles on such list shall be certified to him/her for appointment. He/she may choose from any of the names so certified. If there are as many as two available eligibles certified from an employment list, a promotion list, or a reemployment list, the appointing authority shall make an appointment from one of these lists. If there are less than two available eligibles certified from any of these lists, the appointing authority may choose to appoint one of the persons so certified. If the appointing authority decides not to make an appointment from any of the names so certified when there are less than two available eligibles, the chief of the division shall certify the names of three available eligibles from any list which he/she shall declare to be appropriate and the appointing authority shall appoint one of the persons so certified. If there are less than two available eligibles certified from an appropriate list the appointing authority may elect to appoint one of the names so certified or may make a temporary appointment of some other person as hereinafter provided. Whenever the chief of the personnel division is requested to certify names to fill more than one vacancy in a given class, he/she shall certify to each of the appointing authorities concerned one additional name for each additional vacancy.

(Code 1971, § 14-59)

Sec. 48-85. Unlawful procurement of waiver or withdrawal.

An appointing authority or other person who shall procure the signing of a waiver or otherwise induce an eligible to withdraw his/her name through fraud, misrepresentation, duress, or promise shall be guilty of a misdemeanor.

(Code 1971, § 14-60)

Sec. 48-86. Probationary period.

All original appointments and promotional appointments to classified service shall be for a probationary period of six months, during which time the appointing authority shall report to the chief of the personnel division every 60 days concerning the work of the employee, and at the expiration of the probationary period no salary or other compensation shall be paid to any such person unless the appointing authority has filed with the chief of the personnel division a statement in writing that the services of the appointee during the probationary period have been satisfactory and that it is desired that he/she be continued in the service. Any employee may be dismissed by the appointing authority during the probationary period for reasons relating to the employee's qualifications or for the good of the service stated by the appointing authority in writing and filed with the mayor.

(Code 1971, § 14-61)

Sec. 48-87. Restoration to former position of promotional appointees dismissed during probation.

Any promotional appointee who is dismissed from the position to which he/she was promoted during the probationary period or at the conclusion thereof by reason of the failure of the appointing authority to file a request for his/her continuance in the position shall be restored to the position from which he/she was promoted even though it should be necessary to lay off a person holding his/her former position.

(Code 1971, § 14-62)

Sec. 48-88. Place of residence of employees.

Any person who has been appointed to a position in the classified service in accordance with the provisions of this chapter shall not be required to be a resident within the city.

(Code 1971, § 14-63; Ord. No. O-94-31, § I, 12-19-94)

Sec. 48-89. Temporary appointment when no list available.

Whenever it is not possible to certify the required number of eligible persons for appointment to a vacancy in the classified service because no appropriate list exists, the appointing authority may nominate a person to the chief of the personnel division, and, if such nominee is found by the chief of the division to have had experience and education which appear to qualify him/her for the position and meets such other requirements as are established by this chapter and the personnel rules, he/she may be temporarily appointed to fill such vacancy, and such temporary appointee shall serve at the pleasure of the appointing authority. The chief of the division shall, within one year of the appointment of such temporary appointee, establish an appropriate list. When such appropriate list is established, the position shall be deemed to be vacant for the purposes of certification and appointment, and no salary or other compensation shall be paid to any temporary appointee for service in said position for more than 15 days after certification of two available eligibles from such appropriate list.

(Code 1971, § 14-64)

Sec. 48-90. Emergency appointment.

In case of emergency, an appointing authority may make an emergency appointment of any person to any position without regard to provisions of this chapter to carry on work that must be continued in the public interest, but no such emergency appointments shall continue for more than 30 calendar days nor shall successive emergency appointments be made. Such appointments shall be reported immediately to the chief of the personnel division.

(Code 1971, § 14-65)

Sec. 48-91. Transfers within classified service.

An appointing authority may at any time transfer any classified employee under his/her jurisdiction from one position to another in the same class of position. In every such case the appointing authority shall give written notice of his/her action to the chief of the personnel division, according to the rules therefor prescribed. Transfer of a classified employee from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority may be made subject to rules established therefor, with the approval of the chief of the division and of both appointing authorities concerned. No person shall ever be transferred from a position in the unclassified service to a position in the classified service.

(Code 1971, § 14-66)

Sec. 48-92. Demotions.

An appointing authority may demote a classified employee under his/her jurisdiction from a position in

a class to a position in a lower class, subject to the personnel rules therefor prescribed. In every such case the appointing authority shall give the chief of the personnel division and the employee written notice of his/her intention to effect the demotion not less than 15 days before the date it is intended to become effective.
(Code 1971, § 14-67)

Sec. 48-93. Disciplinary suspensions.

An appointing authority may, for disciplinary purposes, suspend a classified employee without pay for a period or periods not exceeding a total of 30 days in any 12-month period. In every such case the appointing authority shall, on or before the effective date of the suspension, give written notice of his/her action to the employee and shall notify the chief of the personnel division not later than three days after the effective date.
(Code 1971, § 14-68)

Sec. 48-94. Layoffs; preference for retention or reemployment.

An appointing authority may lay off a classified employee whenever he/she deems it necessary because of material change in duties or organization or shortage or stoppage of work or funds. In every case of layoff, the appointing authority shall, before the effective date thereof, give written notice of his/her action to the chief of the personnel division and the employee and shall certify that consideration has been given to length and quality of service of all employees in the affected class under his/her jurisdiction. No employee with full status shall be laid off while probational or temporary employees are employed by the same appointing authority in the same class of positions, nor shall any temporary appointment be made to any position in such class by such appointing authority while any employee who has been laid off by such appointing authority is available for certification from a reemployment list. Any person who has held full status and who has been laid off shall have his/her name placed on the appropriate reemployment list.
(Code 1971, § 14-69)

Sec. 48-95. Dismissal.

An appointing authority may dismiss a classified employee whenever he/she considers the good of the service to be served thereby. Any removal or separation of an employee from the classified service not otherwise provided for in this chapter shall be deemed to be a dismissal. In every case of dismissal, the appointing authority shall, on or before the effective date thereof, give written notice of his/her action to the employee, and shall notify the chief of the personnel division not later than three days after the effective date.
(Code 1971, § 14-70)

Sec. 48-96. Retirement or transfer to light duty of employees unfit for duty.

When an employee has become physically or mentally incapable of or unfit for the efficient performance of the duties of his/her position by reason of infirmities due to advanced age or other disability, it shall be the duty of the appointing authority to transfer such employee to less arduous duties or to order his/her retirement. The appeal procedure established for dismissal shall apply to retirements ordered under authority of this section.
(Code 1971, § 14-71)

Sec. 48-97. Appeal from appointing authority to hearing board.

(a) Any person with full status who feels aggrieved by an action of an appointing authority resulting in a demotion, suspension, layoff, or dismissal, or by any personnel action which an appointing authority might take which causes the person to believe that he/she has been discriminated against because of his/her race, color, creed, national origin, or political or religious opinions or affiliations, may, within ten calendar days of the mailing of the notice of such action, appeal in writing to the personnel hearing board for a review or public hearing. Within five days after conclusion of the hearing the personnel hearing board shall render a decision, which shall be final and binding upon all parties concerned. Upon an appeal and a finding in favor of the employee, said employee shall be forthwith returned to his/her office or position, without loss of compensation, seniority, or any other benefits which he/she may have enjoyed.

(b) Any employee who is a member of a bargaining unit which has a collective bargaining contract with the city wherein a grievance procedure is specified must elect to follow either the grievance procedure in the contract or the appeal procedure specified in this section, but may not use both procedures. By taking the first step in either procedure, the employee will be deemed to have elected the procedure under which he/she has taken said step.

(Code 1971, § 14-72)

Sec. 48-98. Conditions of service.

Conditions of service such as hours of work, attendance regulation, overtime, holidays, pay plan regulations, and leave regulations shall be prescribed by the personnel rules.

(Code 1971, § 14-73)

Sec. 48-99. Training programs.

The chief of the personnel division shall cooperate with appointing authorities and other supervising officials in the conduct of employee training programs to the end that the quality of service rendered by persons in the classified service may be continually improved.

(Code 1971, § 14-74)

Sec. 48-100. Service rating system.

After consultation with appointing authorities and other supervising officials, the chief of the personnel division shall establish a system of service ratings. The system of service ratings, which shall be administered by the chief of the division, shall be designed to permit as accurately and fairly as is reasonably possible the evaluation of each employee's performance of his/her duties by his/her superior or superiors. Such ratings shall be considered in determining salary increases and decreases, the order of layoffs, the advisability of transfers, demotions and dismissals, and promotional tests.

(Code 1971, § 14-75)

Sec. 48-101. Reports of changes in status of employees.

Every appointment, transfer, promotion, dismissal, vacancy, change of salary rate, leave of absence from duty, and other temporary or permanent change in status of employees in both the classified and unclassified service shall be reported to the chief of the personnel division at such time, in such form, and together with such

supporting or pertinent information as the personnel rules shall prescribe.
(Code 1971, § 14-76)

Sec. 48-102. Personnel roster and records; tabulation and analysis of data.

The chief of the personnel division shall maintain a perpetual roster of all officers and employees in the unclassified and classified services, showing for each person the title of the position held, his/her departmental or other agency assignment, his/her salary rate, the date of appointment, complete employment history, and such other data as the chief of the division deems pertinent. The chief of the division shall also maintain such other personnel records as he/she considers desirable, and shall make available to the mayor, the city council, department and institution executives, and other persons having a proper interest therein tabulations and analyses of such personnel data as he/she has available.
(Code 1971, § 14-77)

Sec. 48-103. Retirement and pension system.

The chief of the division of personnel may submit to the mayor recommendations concerning the advisability and practicality of establishing an actuarially sound retirement and pension system for persons holding positions in the city's service.
(Code 1971, § 14-78)

Sec. 48-104. Certification of payrolls and accounts.

No fiscal officer of the city shall draw, sign, or issue, or authorize the drawing, signing or issuing, of any warrant or check upon the treasurer or other disbursing officer of the city, for the payment of a salary or other compensation for personal services, nor shall the treasurer or other disbursing officer of the city pay any salary or other compensation for personal services unless a payroll or account for such salary or other compensation, containing the names of every person to be paid and the amounts to be paid them, has been certified by the appointing authority or his/her duly authorized agent to the effect that the persons' names on the payroll or account are either in the unclassified service or have been appointed or employed or otherwise established in their positions according to the provisions of law, and that the payment of the amounts shown on the payroll or account will not violate the provisions of the pay plan or the personnel rules pertaining thereto.
(Code 1971, § 14-79)

Sec. 48-105. Recovery of unlawful payments.

Any payment violating the provisions of the pay plan or the rules pertaining thereto, made to a person appointed or established in his/her position in a manner contrary to the provisions of this chapter may be recovered from the appointing authority, or any officer or person making such payment, whoever is culpable, or from the sureties on the official bond of such officer or person. Action for such recovery may be maintained by the mayor, any officer or employee of the city service, or any citizen of the city. All monies recovered under this section shall be paid into the city treasury and credited to the general fund.
(Code 1971, § 14-80)

Sec. 48-106. Appointments and other actions to be on merit basis; discrimination prohibited.

The determinations of eligibility for appointments, promotions, and demotions in and dismissals from the classified service shall be based solely upon merit and shall in all cases be made without any regard to national origin, political creed, religion, race, handicap, or sex.

(Code 1971, § 14-81)

Sec. 48-107. Classified employees and members of personnel hearing board not to run for or hold elective office.

No classified employee or member of the personnel hearing board shall seek the nomination of or be a candidate for any elective office; neither shall any elective officer be appointed a member of the personnel hearing board or a classified employee unless he/she resigns his/her elective office.

(Code 1971, § 14-82)

Sec. 48-108. Employee associations authorized.

Employees of the city may fully and freely associate themselves in lawful organizations of their own choosing for their mutual benefit and advancement.

(Code 1971, § 14-83)

Sec. 48-109. Effect of membership in employee association.

No employee shall be punished, disciplined or discriminated against, nor shall his/her status, position, salary, advancement or any right he/she may have as such employee be affected in any way, by reason of his/her membership in any organization of city employees, or his/her lawful activities therein.

(Code 1971, § 14-84)

Sec. 48-110. Establishment of procedures for presentation of grievances.

The heads of the departments and agencies of the city shall formulate and establish in their respective departments or agencies effective machinery whereby grievances, complaints, problems or suggestions may be presented by city employees and/or their duly authorized representatives.

(Code 1971, § 14-85)

Sec. 48-111. Intervention of mayor in disputes between city agency and employee organization.

The city mayor shall have the right to intervene in any dispute between an organization of city employees and any department or agency of the city if he/she deems it desirable or necessary to do so in the interest of the city.

(Code 1971, § 14-86)

Sec. 48-112. Restrictions on political activities of classified employees.

No classified employee shall during working hours engage to any extent in any form of partisan politics, except that he/she may attend and vote at any party caucus, primary or election held during such hours. Outside of working hours any such employee may attend any partisan political rally, club or gathering and privately express his/her partisan political views, but any further partisan political activity on his/her part shall be

engaged in only in accordance with the personnel rules. Any such employee violating the provisions of sections 48-108 to 48-115, inclusive, or of such rules shall for a first offense be either demoted or dismissed and for a second offense dismissed. All charges of such violations shall be publicly heard by the personnel hearing board. (Code 1971, § 14-87)

Sec. 48-113. Solicitation of political contributions.

No classified employee or member of said personnel hearing board shall solicit contributions for nor shall he/she be solicited to contribute to any political party or campaign. Every officer, agent, clerk, or employee under the government of the city who may have charge or control in any building, office, or room occupied for any purpose of said government is hereby authorized to prohibit the entry of any person, and he/she shall not permit any person to enter the same, for the purpose of therein making, collecting, receiving, or giving notice of any political assessment, subscription or contribution, and no person shall enter or remain in any said building, office or room or send or direct any letter or other notice thereto for the purpose of giving notice of, demanding, or collecting a political assessment, subscription, or contribution, nor shall any person therein give notice of, demand, collect, receive, or pay any such assessment, subscription, or contribution contrary to the provisions of this chapter.

(Code 1971, § 14-88)

Sec. 48-114. Promise of influence to obtain favors in classified service.

No person who is a candidate for nomination or for election for any elective office shall seek to influence the vote of any person by promising to use political influence in obtaining for such person an appointment or promotion in the classified service.

(Code 1971, § 14-89)

Sec. 48-115. Standard of conduct of employees.

Every city employee shall fulfill conscientiously, according to the Charter and this Code, or other city ordinance, the duties of the office conferred upon him/her, and shall prove himself/herself in his/her behavior inside and outside the office worthy of the esteem which his/her profession requires. In his/her official activity, the city employee shall pursue the common good, and not only be impartial but so act as not to endanger his/her impartiality or to give occasion for distrust of his/her impartiality.

(Code 1971, § 14-90)

Sec. 48-116. Salaries and benefits of employees in classified service, permanent police and fire personnel who are serving full-time in the military.

Full-time employees in classified service of the city, full-time permanent police personnel and full-time permanent fire personnel who by reason of membership in the active reserve forces of the United States or as members of the Rhode Island National Guard are ordered by the appropriate authority to full-time active duty shall be paid by the city an amount equivalent to the actual difference between the employee's then current regular city salary (including, if applicable, all longevity pay benefits; and including any applicable salary increases that may take effect during the employee's military duty leave, as well as retirement service credits and contributions) and the amount of pay received by the employee for his or her military service, if said regular city salary is higher than the employee's military pay. The employee's share of his or her pension contribution

shall be determined based upon the employee's salary and longevity which he or she would have earned had he or she not been ordered to full-time active duty in the military and shall be deducted from the salary differential payable to the employee under this section.

Additionally, the employee's health care benefits provided to the employee as a result of his or her city employment shall continue uninterrupted while the employee remains on full time active military duty.

In the event of any occurrence which would amount to the employee's voluntary or involuntary separation from city service, notwithstanding the employee's full-time service in the military, said pay supplement and benefits shall cease to be provided by the city, subject to any other provision of the Warwick City Charter, the Warwick Code of Ordinances, state or federal law, or any controlling provision of a collective bargaining agreement then in effect and applicable to the employee.
(Ord. No. O-04-22, § I, 10-16-04)