

AN ORDINANCE TO AMEND CHAPTER 40 OF THE CITY CODE TO ELIMINATE BUMPING RIGHTS FOR NON-UNION EMPLOYEES IN THE CLASSIFIED SERVICE

#0092

Sponsor:

**Council
Member
Walsh**

Co-Sponsor:

**Council
Member
Harlee
Darby
Oliver
Fields
Cabrera**

**Council
President
Congo**

WHEREAS, Sections 40-186 through 40-190 of the City Code set forth the City's seniority and layoff system for employees in the classified service; and

WHEREAS, Section 40-189 permits a qualified City employee who has been selected for lay off to bump the most junior employee in the City, regardless of department or division, who holds a pay grade or salary level that is equal to or lower than the employee's current pay grade or salary level provided the bumping employee has the necessary qualifications to perform all of the duties of the junior employee's job within twenty working days ("Bumping Rights"); and

WHEREAS, eliminating Bumping Rights results in the retention of more qualified City employees and fosters a better employee morale; and

WHEREAS, this Ordinance eliminates Bumping Rights for non-union employees in the classified service but does not affect any other rights provided to such employees with respect to the City's seniority and layoff system; and

WHEREAS, this Ordinance does not affect any rights provided to union employees in the classified service with respect to the City's seniority and layoff system; and

WHEREAS, the aforementioned goals are accomplished by (1) making current City Code Sections 40-189 and 40-190 applicable solely to classified, union employees and (2) creating new City Code Sections 40-191 and 40-192, which mirror City Code Sections 40-189 and 40-190 with the omission of bumping rights and will be applicable solely to classified, non-union employees; and

WHEREAS, in light of the foregoing, City Council deems it necessary and appropriate to amend Chapter 40 of the City Code to eliminate Bumping Rights for non-union employees in the classified service.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Section 40-189 of the City Code is hereby amended by deleting the stricken language and adding the underlined language to read as follows:

Sec. 40-189. - ~~Same~~ Classified Service – Union Employees - Layoff procedure.

(a) From time to time, the public interest may require elimination or curtailment of a public service, which may, in turn, require the elimination of one or more city positions. The selection of these positions shall be within the city's sole discretion. Any city employee affected by a reduction in workforce shall be identified based upon his or her qualifications, assigned pay plan, and city seniority.

(b) The rights established by these layoff procedures shall apply only within the designated group of positions within the affected employee's current pay plan.

(c) Bumping rights shall apply regardless of the departments or divisions involved. No employee shall be required to "bump" another employee. Any employee scheduled for layoff may, at his or her discretion and as applicable, opt to be laid off, exercise his or her bumping rights, apply for any open position, or retire, if eligible.

(d) Upon a reduction in workforce in any department, a more junior employee may be retained if, in the discretion of the department head, subject to the approval of the Director of ~~Personnel~~ Human Resources, there are no qualified employees with greater seniority who can satisfactorily perform all of the duties of the position within 20 working days.

(e) An employee selected for layoff may request to be placed in any vacant, authorized and approved classified service position in a pay grade or salary level that is equal to or lower than the position the employee currently occupies, provided that:

typographical error (1): *human resources

(1) In the discretion of the department head, subject to the approval of the director of ~~personnel~~^{*}, s/he has the qualifications necessary to perform satisfactorily all of the duties of the position sought within 20 working days; and

(2) The employee is the most senior of the qualified employees seeking such placement.

(f) If no position is vacant, then the employee shall exercise city seniority and bump the most junior employee in the city, regardless of department or division, who holds a pay grade or salary level that is equal to the employee's current pay grade or salary level, provided the bumping employee has the necessary qualifications to perform all of the duties of the junior employee's job within 20 working days. If no position in an equal pay grade exists, then the employee shall bump into a position that is lower than his/her current pay grade or salary level beginning with the next lowest pay grade or salary level.

(g) Employees who bump into positions in other departments and successfully complete the 20 working day probationary period shall be credited with the city and departmental seniority they had accrued.

SECTION 2. Section 40-190 of the City Code is hereby amended by deleting the stricken language and adding the underlined language to read as follows:

Sec. 40-190. – Same Classified Service – Union Employees - Recall from layoff; reemployment lists.

(a) The reemployment list for any vacant, approved, and authorized position in the classified service shall consist of all employees who are eligible for recall from layoff, as set forth in this section. Reemployment lists shall include the names of all former, regular classified service employees who were laid off from positions in the same or higher pay grade or salary level as the vacant position; any employee who was laid off and left city service shall be eligible for positions in or below the pay grade or salary level from which s/he was laid off. Reemployment lists shall also include the names of current city employees who, in lieu of layoff, bumped from a position in the same pay grade or salary level as the vacant position to a position in the classified service with a lower pay grade or salary level, any employee who bumped to a lower pay grade or salary level position in lieu of layoff shall be eligible for recall only to

those positions in the pay grade or salary level from which the employee bumped.

(b) Employees will remain on the reemployment list for a period of two years; however, any individual who declines two offers of regular employment will be removed from the list.

(c) Classified service employees who were laid off, or who bumped to a position in a lower pay grade or salary level in lieu of layoff, shall be recalled based upon their qualifications, former pay grade or salary level and city seniority. The most senior eligible employee on the reemployment list who, in the city's sole discretion, has the qualifications necessary to perform satisfactorily all of the duties of the position to be filled within 20 working days shall be recalled first. Any employee recalled pursuant to this section shall be required to satisfactorily complete a probationary period of 20 working days.

(d) The anniversary date of a laid off employee who has been recalled shall be the effective date of the recall. Upon satisfactory completion of the 20 working day probationary period, the recalled employee's city and departmental seniority and continuous service shall include the employee's prior years of service, less time away from city employment, and the employee shall be credited with any prior-accrued leave time, unless such time was paid out at the time the employee was laid off.

(e) A recalled employee shall begin to accrue vacation and combined leave time on the effective date of the recall. The accrual of leave shall be at the employee's prior rate of accrual; leave time shall be earned on a pro-rata basis in the first calendar year of reemployment. However, if vacation time was paid out at the time the employee was laid off, the employee shall accrue no vacation leave in the first calendar year of reemployment. A recalled employee shall immediately be eligible for benefits, including the use of vacation or combined leave.

(f) A recalled employee shall receive not more than the step in the pay grade s/he received at the time of lay off with credit given towards service in said step. A recalled employee's anniversary date shall be adjusted accordingly.

SECTION 3. A new Section 40-191 is hereby added to the City Code to read as follows:

Sec. 40-191. - Classified Service - Non-Union Employees - Layoff procedure.

(a) From time to time, the public interest may require elimination or curtailment of a public service, which may, in turn, require the elimination of one or more city positions. The selection of these positions shall be within the city's sole discretion. Any city employee affected by a reduction in workforce shall be identified based upon his or her qualifications, assigned pay plan, and city seniority.

(b) The rights established by these layoff procedures shall apply only within the designated group of positions within the affected employee's current pay plan.

(c) Any employee scheduled for layoff may, at his or her discretion and as applicable, opt to be laid off, apply for any open position, or retire, if eligible.

(d) Upon a reduction in workforce in any department, a more junior employee may be retained if, in the discretion of the department head, subject to the approval of the Director of Human Resources, there are no qualified employees with greater seniority who can satisfactorily perform all of the duties of the position within 20 working days.

(e) An employee selected for layoff may request to be placed in any vacant, authorized and approved classified service position in a pay grade or salary level that is equal to or lower than the position the employee currently occupies, provided that:

(1) In the discretion of the department head, subject to the approval of the director of ~~personnel~~^{*}, s/he has the qualifications necessary to perform satisfactorily all of the duties of the position sought within 20 working days; and

(2) The employee is the most senior of the qualified employees seeking such placement.

SECTION 4. A new Section 40-192 is hereby added to the City Code to read as follows:

Sec. 40-192. - Classified Service - Non-Union Employees - Recall from layoff; reemployment lists.

(a) The reemployment list for any vacant, approved, and authorized position in the classified service shall consist of all employees who are eligible for recall from layoff, as set forth in this section. Reemployment lists shall include the names of all former, regular classified service employees who were laid off from positions in the same or higher pay grade or salary level as the vacant position; any employee who was laid off and left city service shall be eligible for positions in or below the pay grade or salary level from which s/he was laid off.

(b) Employees will remain on the reemployment list for a period of two years; however, any individual who declines two offers of regular employment will be removed from the list.

(c) Classified service employees who were laid off shall be recalled based upon their qualifications, former pay grade or salary level and city seniority. The most senior eligible employee on the re-employment list who, in the city's sole discretion, has the qualifications necessary to perform satisfactorily all of the duties of the position to be filled within 20 working days shall be recalled first. Any employee recalled pursuant to this section shall be required to satisfactorily complete a probationary period of 20 working days.

(d) The anniversary date of a laid off employee who has been recalled shall be the effective date of the recall. Upon satisfactory completion of the 20 working day probationary period, the recalled employee's city and departmental seniority and continuous service shall include the employee's prior years of service, less time away from city employment, and the employee shall be credited with any prior-accrued leave time, unless such time was paid out at the time the employee was laid off.

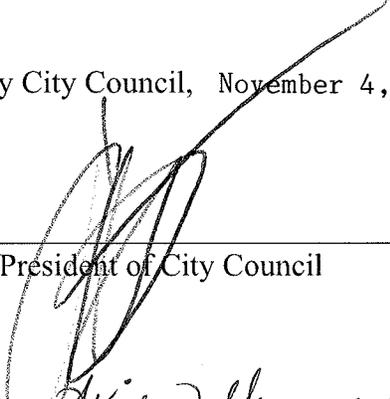
(e) A recalled employee shall begin to accrue vacation and combined leave time on the effective date of the recall. The accrual of leave shall be at the employee's prior rate of accrual; leave time shall be earned on a pro-rata basis in the first calendar year of reemployment. However, if vacation time was paid out at the time the employee was laid off, the employee shall accrue no vacation leave in the first calendar year of reemployment. A recalled employee shall immediately be eligible for benefits, including the use of vacation or combined leave.

(f) A recalled employee shall receive not more than the step in the pay grade s/he received at the time of lay off with credit given towards service in said step. A recalled employee's anniversary date shall be adjusted accordingly.

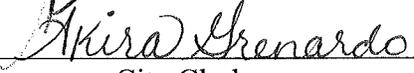
SECTION 5. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading.....September 2, 2021
Second Reading.....September 2, 2021
Third Reading..... November 4, 2021

Passed by City Council, November 4, 2021

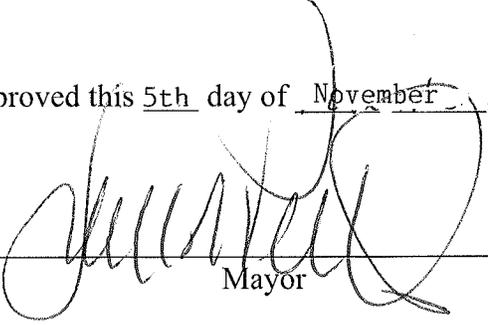


President of City Council

ATTEST 

Deputy City Clerk

Approved this 5th day of November, 2021.



Mayor

SYNOPSIS: This Ordinance amends Chapter 40 of the City Code to eliminate bumping rights for non-union employees in the classified service. It does not affect any other rights provided to classified, non-union employees with respect to the City's seniority and layoff system. It also does not affect any rights provided to union employees in the classified service with respect to the City's seniority and layoff system. This is accomplished by (1) making current City Code Sections 40-189 and 40-190 applicable solely to classified, union employees and (2) creating new City Code Sections 40-191 and 40-192, which mirror City Code Sections 40-189 and 40-190 with the omission of bumping rights and will be applicable solely to classified, non-union employees.

FISCAL IMPACT STATEMENT: This Ordinance has no anticipated fiscal impact.