

ORDINANCE NO. 1436-20

AN ORDINANCE RELATING TO THE PERSONNEL RULES; AMENDING TUALATIN MUNICIPAL CODE CHAPTER 1-06; AND CREATING NEW PROVISIONS.

WHEREAS, Tualatin Municipal Code Chapter 1-06 established the City's Personnel Rules; and

WHEREAS, the Council wishes to amend the Tualatin Municipal Code Chapter 1-06 to update the process by which Personnel Rules are to be updated.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

**Section 1.** Tualatin Municipal Code Chapter 1-6 (Personnel Rules) is amended to read as follows:

~~TMC 1-6-010 - Title.~~

~~The title of this chapter is "The Personnel Ordinance of the City of Tualatin."~~

**~~TMC 1-6-020~~ 1-6-010 - Purpose.**

~~This chapter is adopted~~ The purpose of this Chapter is to establish an equitable and uniform procedure for dealing with personnel matters; to attract to municipal service and to retain the best and most competent persons available; to assure that appointments and promotions of employees will be based on merit and fitness; and to provide a reasonable degree of job security for qualified employees.

**TMC 1-6-020 - Delegation of Authority to City Manager.**

(1) The City Manager is authorized to establish, maintain, and update the City's employment policies, rules, and procedures in accordance with the process established by this Chapter.

(2) The City Manager must administer this Chapter and the employment policies, rules, and procedures, consistent with the federal and state law.

(3) For purposes of this Chapter, the term "City Manager" means City Manager or the City Manager's designee.

**~~TMC 1-6-030 - Adoption and Amendment of Employment Rules;~~ Nondiscrimination.**

~~(1) Personnel rules shall be adopted and amended by resolution of the City Council. The City Manager must establish employment policies, rules, and procedures to~~ The rules shall provide the means to recruit, select, develop, and maintain an effective and responsive work force, and shall The employment policies, rules, and procedures must include ~~policies and procedures~~ provisions for employee hiring and advancement, training and career development, job classification, salary administration, retirement, fringe benefits, discipline, discharge and other related activities.

~~(2) All appointments and promotions shall must be made in accordance with the personnel rules without regard to race, color, national origin, disability, religion, age, gender, sexual orientation, gender identity and expression, marital status, veteran status, source of income, political affiliation, or any other basis prohibited by federal, state, or local law. sex, race, color, age, religion or political affiliation. All appointments and promotions ; and shall must be based on merit and fitness demonstrated education, training, experience, performance, knowledge, skills, licenses, certifications, and abilities to perform the essential functions and meet the qualifications of a position.~~

**TMC 1-6-040 - ~~Administration of the Rules.~~ Compilation and Available to the Public.**

~~The City Manager shall be responsible for:~~

~~(1)Administering this chapter and the personnel rules not specifically reserved to the City Council.~~

~~(2)Preparing or causing to be prepared and recommending to the City Council personnel rules and revisions and amendments to such rules.~~

All adopted employment policies, rules, and procedures must be compiled and made available to employees and the public on the City's website and upon request.

**TMC 1-6-070 - Council Action on Rules.**

No Council action is necessary to ratify an employment policy, rule, or procedures adopted by the City Manager. However, upon the Council's own motion, the Council may review and modify an existing employment policy, rule, or procedure, or adopt a new employment policy, rule, or procedure at any time. If the Council chooses to adopt, amend, or repeal an employment policy, rule, or procedure, it must do so by resolution of the Council.

~~TMC 1-6-050 - Severability Clause.~~

**TMC 1-6-060 - Purpose. 1-6-100 – Police Background Check Authorization; Procedure.**

~~The purpose of this chapter (1-6-060 through 1-6-080) is to authorize the~~

(1) The Tualatin Police Department is authorized to access Oregon State Police (OSP) criminal offender information through the Law Enforcement Data System (LEDS) for applicants seeking employment or volunteer work, and independent contractors operating within the City of Tualatin, in accordance with OAR 257-10-025(1)(a).

~~TMC 1-6-070 - Procedure.~~

(2) All criminal background check proceedings under this chapter shall must be conducted in accordance with ORS ~~481.555~~ 181A.230 and OAR 257-10-025, which establish procedures for access to criminal record information possessed by the Oregon State Police (OSP) through the Law Enforcement Data System (LEDS), and as ~~supplemented below~~ provided as follows:-

(1) (a) All parties subject to a background check under this Chapter will be required to authorize the City of Tualatin to conduct a criminal offender information check through the OSP LEDS system.

(2) (b) The ~~Human Resources Department~~ City Manager shall maintain the criminal history authorization forms for those doing work on behalf of the City and request that a criminal history check be made if the ~~Human Resources Manager~~ City Manager determines that it will be in the best interest of the City in filling the position.

(3) (c) The Tualatin Police Department shall conduct the check on the prospective employee, volunteer, or independent contractor doing business with the City and report to the ~~Human Resources Department~~ City Manager that the person's record indicates "no criminal and/or traffic infraction record meets standards set for the position" or "criminal and/or traffic record does not meet standards set for ~~that~~ the position."

(4) (d) If the person's record is reported as "criminal record and/or traffic record does not meet standards set for that position," the ~~Human Resources Manager or designee~~ City Manager may request a written criminal history report from the OSP Identification Services Section in accordance with OAR 257-10-025(1)(c) and pay the applicable fee for this service. The ~~Human Resources Director or designee~~ City Manager may make a written criminal and/or driving history record available to the selecting official for his/her consideration in making the hiring decision.

(5) (e) The written criminal history record on persons that are not hired or appointed as a volunteer will be retained ~~in accordance with OAR 166-040-060 for three years~~ for the minimum required period as provided in the Secretary of State's records retentions schedule, and then appropriately destroyed by shredding at the end of the three-year period in accordance with law.

(6) (f) The criminal history record of applicants and volunteers with a criminal history that are hired or appointed will become a part of the confidential personnel file of that employee or volunteer. Only persons authorized by law or regulations may access confidential personnel files.

(7) (g) Applicants for employment, ~~or~~ appointment as a volunteer, or selection as an independent contractor who have a felony criminal history or a history of conviction of a misdemeanor will be closely examined to determine if the person possesses the trustworthiness needed to meet the required degree of public trust and confidence. Each selection shall be made on an individual, case by case basis, taking into account the person's qualifications, the requirements of the particular job or volunteer post applied for, and the results of the criminal history check. Factors, such as the age of the offender at the time of the offense, the type of offense and subsequent rehabilitation, and the public sensitivity of the position under consideration shall be taken into account in evaluating a criminal history report.

(8) (h) Hiring an applicant or appointing a volunteer or independent contractor with a criminal history record will require the approval of the ~~Human Resources Manager~~ City Manager, after full disclosure and consideration of the criminal history of the applicant and discussions with the Police department official conducting the background investigation.

**Section 2. Severability.** Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

**Section 3. Effective Date.** This ordinance is effective 30 days from the date of adoption.

ADOPTED by the City Council this 13<sup>th</sup> day of April, 2020.

CITY OF TUALATIN, OREGON

BY Frank Bubenik  
Mayor

APPROVED AS TO FORM

ATTEST:

BY Sean Brady  
City Attorney

BY Sherilyn Lombos  
City Recorder

Signature: Sherilyn Lombos  
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# Ord 1436-20

Final Audit Report

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