

ORDINANCE NO. 2220

AN ORDINANCE declaring an act to amend the charter of the City of Albany, Oregon, by adding thereto a new article to be designated article XVII providing for the appointment of a Civil Service Commission, defining its function and duties, providing for the hiring and discharging of employees under the Civil Service, providing for the submission of said act to the electors of the City of Albany at the general election to be held November 7, 1950, and declaring an emergency.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE
CITY OF ALBANY, OREGON:

Section I. That the common council hereby ordains, declares and initiates an act to amend the charter of the City of Albany, which said act reads as follows:

"AN ACT

to amend the charter of the City of Albany by adding thereto a new article to be designated article XVII providing for a Civil Service Commission, designating the functions and duties of said Civil Service Commission, placing present employees on Civil Service, providing for the hiring and discharging of employees subject to Civil Service, providing for leaves of absence and sick leaves, providing for tenure of office of Civil Service employees and other rules and regulations relative to employees under Civil Service, and making violations of the act a misdemeanor.

BE IT ENACTED BY THE PEOPLE OF THE CITY
OF ALBANY, OREGON:

Section 1. (CIVIL SERVICE) DEFINITION OF TERMS. As used in this act, the following mentioned terms shall have the following described meanings, unless such terms are used plainly with some other meaning, to-wit:

The term "commission" means the civil service commission herein created, and the term "commissioner" means any one of the three commissioners of that commission.

The term "appointment" includes all means of selecting, appointing, or employing any person to hold any office, place, position, or employment subject to civil service.

The term "council" includes and shall mean the common council of the City of Albany, Oregon.

The Term "appointing authority" means the common council of the city of Albany, Oregon, insofar as the appointment of a chief is concerned, and means the chief of the fire department of said city, or the chief of the police department, insofar as the appointment or employment of all the members of the fire department, or the police department, of said city of Albany is concerned.

Insofar as appeals, certifications, examinations and markings are concerned, the powers vested in the commission and not specifically delegated to the chief examiner thereof may be exercised by the chief examiner in the discretion of the commission.

This act shall have the effect of placing both the fire department of the city of Albany and the police department of the city of Albany under civil service rules and regulations, and each of said departments shall have and retain its separate organization and identity, which separate organization shall consist of such officers and inducted and appointed men as the common council may from time to time, by ordinance or resolution, determine and designate.

Section 2. EMPLOYEES SUBJECT TO CIVIL SERVICE. The classified civil service of the city of Albany, Oregon, shall include all of the employees of the fire department and the police department of said city, except the chief of each department. Except as hereinafter expressly provided, all appointments to and promotions in the fire department or the police department of the city of Albany shall be made solely according to fitness, which shall be ascertained by open competitive examinations, and merit and fidelity to service, as provided for in this act. No person shall be appointed to, reinstated in, or transferred, suspended, or discharged from, any such office, place, position, or employment contrary to the provisions of this act.

Section 3. CIVIL SERVICE COMMISSION: CREATION AND TERM OF OFFICE. There is hereby created, subject to the provisions of this act, a civil service commission which shall be composed of three members, none of whom shall hold any other public office, place, position, or employment with the city of Albany. The members of such commission shall be appointed by the council within thirty (30) days after this act becomes effective and shall serve without compensation. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of the city of Albany, Oregon, for a least three years immediately preceding such appointment, and an elector of such City. The term of office of such commissioner shall be six years, except that the first three members shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of such commission may be removed from office by the council for incompetency, incompatibility, or dereliction of duty, or malfeasance in office, or other good cause; provided, however, that no member of the commission shall be removed until charges have been preferred in writing, due notice given, and a full hearing had. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this act. Two members of such commission shall constitute a quorum, and the votes of any two members of such commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission under or by virtue of the provisions of this act.

Section 4. FUNCTIONS AND DUTIES OF THE CIVIL SERVICE COMMISSION. Immediately after appointment, the commission shall organize by electing one of its members chairman and hold regular meetings at least once a month and may hold such additional meetings as may be required in the proper discharge of their duties. The city recorder shall be ex officio secretary and chief examiner of the commission and he shall keep the records of the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe. It shall be the duty of the civil service commission:

- (a) To make suitable rules and regulations not inconsistent with the provisions of this act. Such rules and regulations shall prove in detail the manner in which examinations may be held and appointments, promotions, transfers, reinstatements, suspensions, and discharges shall be made. Such rules and regulations may be changed from time to time, and the same, together with all changes, shall forthwith be printed for distribution, and the commission shall, not less than ten days prior to the time when the same shall take effect, give notice in a newspaper printed and published in said city of Albany and having a general circulation therein, of the place where printed copies of such rules and regulations and changes therein may be obtained, provided, however, that all publications required by this and other sections of this act shall be made in a newspaper which is printed and published not less than once a day for at least six days of each week.
- (b) The rules and regulations adopted by the commission shall provide for a credit of ten per cent in favor of all applicants for appointment or employment under civil service who, in time of war or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States, including the army, navy, and marine corps, and the American Red Cross. These credits to apply to entrance examinations only.
- (c) The commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this act and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions and employments affected by this act, and ascertain whether this act and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigations on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing the necessity for such investigation. In the course of such investigation the commission, or designated commissioner, or chief examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, and also, to 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 actions in circuit courts of the state; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oath administered by the recorder of the city of Albany in his judicial capacity, or by any other judicial officer hereafter to be appointed or elected by the city of Albany, Oregon; and the failure upon the part of any person so subpoenaed to obey the requirements of the subpoena shall be deemed a violation of the penal provisions of this act.

- (d) To conduct hearings and investigations: All hearings and investigations before the commission, or designated commissioner, or chief examiner shall be governed by this act and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission nor designated commissioner shall be bound by the technical rules of evidence. No informality in any proceedings or hearing or in the manner of taking testimony before the commission or designated commissioner shall invalidate any order, decision, rule, or regulation made, approved or confirmed by the commission; provided, however, that no order, decision, rule, or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members.
- (e) To hear and determine appeals or complaints respecting the administrative work of the personnel department; appeals upon the allocation of positions; the rejection of an examination; and such other matters as may be referred to the commission.
- (f) Establish and maintain in card or other suitable form a roster of officers and employees.
- (g) Provide for, formulate, and hold competitive tests to determine the relative qualifications of persons who seek employment in any class of position and, as a result thereof, establish employment and re-employment lists for the various classes of positions.
- (h) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the person highest on the re-employment or employment list for the class.

If there are no such lists, to authorize provisional or temporary appointment list for such class. Such temporary or provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provisional appointment or serve more than four months as a provisional appointee in any one fiscal year.

- (i) Keep such records as may be necessary for the proper administration of this act.
- (j) Within sixty days after the date of the taking effect of this act, the commission shall classify all offices, places, positions, and employments, and adopt rules and regulations to carry out the purposes and provisions of this act. Within ninety days after the date of the taking effect of this act, commission shall hold examinations for the filling of all offices, places, positions, and employments not filled persons adopted or inducted into civil service by section five (5) of this act. As soon as such examinations have been held and the eligible candidates have been ascertained, it shall be the duty of the commission to certify to the appointing authority within ninety days after the taking of the test, the names and addresses of such eligible candidates upon the roster as may be available for such offices, places, positions or employments as are not then filled by persons adopted and inducted into civil service as hereinafter provided, and it shall be the duty of the appointing authority to make selections and appointments from the lists so certified; the commission shall cancel such portion of any list as has been in force for more than two years.

Section 5. ADOPTION AND INDUCTION OF INCUMBENTS INTO CIVIL SERVICE. For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment of this act, all persons holding positions in the fire department and police department of the city of Albany, Oregon, excepting the chiefs thereof, when this act takes effect, who shall have served in such position for a period of at least six months, are hereby declared eligible for permanent appointment under civil service to the offices, places, positions or employments which they shall then hold, respectively, without examination or other act on their part, and not on probation; and every such person is hereby automatically adopted and inducted permanently into civil service, into such office, place, position, or employment which such persons then holds, as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation.

Section b. APPLICANTS.

- (a) Citizenship. An applicant for a position of any kind under civil service must be a citizen of the United States of America and a resident of Albany, Oregon or Albany rural routes, who can read and write the English Language, and must have been a resident of the State of Oregon, for at least one (1) year.

- (b) Foreign Born. Any applicant for a position of any kind under this act, who is of foreign birth, shall be and is hereby required to furnish satisfactory proof to the commission that he is a naturalized citizen of the United States of America, and can read and write the English language, and must be an elector of Linn County, Oregon, and have been a resident thereof for at least one (1) year.
- (c) Character and Fitness. An applicant for a position of any kind under civil service must be of an age suitable for the position applied for, in ordinary good health, of good moral character, and of temperate and industrious habits; these facts to be ascertained in such manner as the commission may deem advisable.
- (d) Disqualification. The commission or the chief examiner may refuse to grant an examination to an applicant or to certify for appointment any one whose name is not on the eligible list for any of the following reasons:
- (1) Dismissal from previous employment for delinquency or misconduct.
 - (2) Mental or physical unfitness for the position for which application is made.
 - (3) Dishonest, disgraceful, immoral, or prejudicial conduct.
 - (4) Intentional false statement, deception, or fraud in securing or attempting to secure an examination, certification, or appointment; or any violation of the rules governing the examination.
 - (5) Habitual gross drunkenness or use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid, or preparation to such an extent that the use thereof interferes with the efficiency or mental or physical fitness of the applicant from properly performing the functions and duties of any position under civil service.
 - (6) Conviction of a felony, or a misdemeanor involving moral turpitude.

Section 7. ESTABLISHMENT OF RE-EMPLOYMENT LISTS. When an employee in the classified civil service who has been performing his duties in a satisfactory manner as shown by the records of the department in which he has been employed is laid off because of lack of funds, or has been on authorized leave of absence and is ready to report for duty when a position is open, or has resigned in good standing and with the consent of the civil service commission and the department under whose jurisdiction he was employed, and has withdrawn his resignation without being restored to his position, the commission shall cause the name of such employee to be placed on the re-employment list for the appropriate class for re-employment within two years thereafter when vacancies occur. The order in which names shall be placed on the re-employment lists for any class shall be established by rule. No person shall be reinstated or have his name restored to a re-employment list after resignation unless such resignation is withdrawn within one year after it has been presented and accepted.

Section 8. ESTABLISHMENT OF EMPLOYMENT LISTS. The chief examiner shall provide examinations in accordance with this act and the regulations of the commission and shall maintain a list of persons eligible for employment who have met the established requirements. Such examinations shall be public, competitive, and open to all persons who may be lawfully appointed to any position within the class for which such examinations are by qualifying with the limitations specified by this act or in the rules of the commission as to residence, age, health, habits, moral character, and ability to perform the duties of such positions. Promotion examinations shall be public and competitive, but open only to persons examined and appointed or adopted or inducted under the provisions of this act and who have served at least one (1) year continuous service with the police or fire departments.

All tests and examinations shall be practical and shall consist only of subjects which will fairly determine the capacity of the persons examined to perform the duties of the position to which appointment is to be made, and may include tests of physical fitness and of manual skill. No credit shall be allowed for service rendered under a temporary appointment. No questions in any test shall relate to religious or political opinions or affiliations. No questions which are misleading or unfair or in the nature of catch questions shall be asked. As many tests shall be held as may be necessary to provide eligibles for each class of position and to meet all requisitions and to fill all positions held by temporary appointees. The chief examiner shall prepare a list of eligibles for each grade or position from the persons who shall be examined or shall attain such minimum mark as may be fixed by the commission. Such persons shall take rank upon the list in the order of their relative excellence as determined by the tests, without reference to priority of time of tests.

The markings and test papers of each candidate shall be open to his own inspection. The markings and test papers of all persons upon the list of eligibles may be opened to public inspections in the discretion of the civil service commission. An error in the marking of

any test other than an error of judgment, if called to the attention of the commission within one month after the posting of an employment list resulting from such test, shall be corrected by it; provided, however, that such correction shall not invalidate any certification or appointment previously made. Notice of the time, place, and general scope of every test and of the duties, pay, and experience advantageous or requisite for all positions in the grade for which the test is to be held shall be given by the commission by publication at least once a day for at least six days preceding the test in a newspaper of general circulation, published in the city of Albany, Oregon, and by posting such notice in three public places in said city of Albany, one of which shall be in the city hall, which said notice shall be posted for not less than two weeks prior to such examination. Such further notice shall be given as the commission may prescribe.

Section 8A. CHIEFS OF DEPARTMENTS: Those persons regularly appointed and acting as chiefs of the Fire Department and Police Department of the City of Albany shall not be under classified civil service as established by this act unless they shall be discharged, in which event, they shall be screened by the commission prior to occupying the position in their respective departments which they held immediately prior to being appointed chief to the same effect as though appointed to that position by order of the civil service commission and thereafter said persons shall be under classified civil service and subject to all of the provisions of this act. The vacancy for such appointment shall be established by the Civil Service Commission through appropriate rule and regulation and to create such vacancy, said commission shall have the power to demote employees presently on civil service and remove the most newly appointed employee to the top of the employment list.

Section 9. APPOINTMENTS TO VACANT POSITIONS: CERTIFICATION FROM LISTS. Whenever a position in the classified service becomes vacant, the commission, if it desires to fill the vacancy, shall make requisition upon the chief examiner for the name and address of a person eligible for appointment thereto. The chief examiner shall certify the name of the person highest on the appropriate re-employment list for the class to which the vacant position has been allocated, and who is willing to accept employment. If there is no appropriate person from the re-employment list for the class, the chief examiner shall certify the name of the person standing highest on the employment list held appropriate for such class. If more than one vacancy is to be filled, an additional name shall be certified for each additional vacancy. The commission shall forthwith appoint such person to such vacant position.

Whenever a position is held by a temporary appointee and a re-employment list or employment list for the class of such position exists, the chief examiner shall forthwith certify the name of the person eligible for appointment to the commission and said commission shall forthwith appoint the person so certified to said position.

No person so certified by the chief examiner to the commission, except those on probationary service, shall be laid off, suspended, given leave of absence from duty, transferred, or reduced in pay or grade except for reasons which will promote the good of the service, specified in writing on which the person affected shall have an opportunity to be heard before the commission and then only with the consent and approval of the commission expressed in written order.

Appointments shall be regarded as taking effect upon the date when the person certified for appointment reports for duty. A person tendered certification may waive or refuse certification in writing for a period and for reasons specified in the rules of the commission. Such waiver or refusal shall not affect the standing or right to certification to the first vacancy in the class occurring after the expiration of such period. If no such waiver or refusal is filed in writing with the commission, or if one waiver has been filed and the period thereof has expired and a person tendered certification fails to report for duty forthwith after tender of certification has been made, his name may at the discretion of the commission be stricken from all lists for such class. Acceptance or refusal of temporary appointment or of an appointment to a position exempt from the provisions of this act shall not effect the standing of any person on the list for permanent appointment.

To enable the appointing authority to exercise a choice in the filling of positions, no appointment, employment, or promotion in any position in the classified service shall be deemed permanent until after the expiration of a period of three to six months' probationary service, as may be provided in the rules of the civil service commission, during which the appointing authority may terminate the employment of the person certified to him or it, if, during the performance of duty, the appointing authority deems him unfit or unsatisfactory for service in the department. In such case, the appointing authority shall next employ or appoint the person certified to it as standing next highest on such list.

Section 10. COUNCIL TO CREATE EMPLOYMENTS AND FIX COMPENSATIONS. All offices, places, positions, and employments coming within the purview of this act shall be created by the

council, and nothing herein contained shall infringe upon the power and authority of the council to fix the salaries and compensation of all employees hereunder; provided, however, that until changed by the council all offices, places, positions, and employments now created or established in said departments and subject to civil service, together with all salaries and compensation now fixed for employees appointed or employed therein, shall continue as the same are now created, established, or fixed. In the creation of every office, place, position, or employment, subject to the provisions of this act and in determining the amount of salary or compensation thereof, the council shall, in each instance, give due consideration to the recommendation of the chiefs of said departments as well as to the recommendation of the civil service commission with regard thereto.

Section 11. LEAVE OF ABSENCE AND SICK LEAVE. Leave of absence for not more than thirty days without pay and without the consent of the commission may be granted by any appointing authority to any person under civil service subject to his or its authority, provided, that such appointing authority shall give immediate notice of such leave to the commission. Leave of absence for longer periods shall not be granted except by express permission of the commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified civil service. Every employee subject to this act shall be entitled to fifteen (15) days per year sick leave with pay. An employee is deemed entitled to sick leave solely for his own illness. Any appointing authority may give sick leave and a denial of sick leave may be appealed to the commission. Sick leave shall be cumulative from year to year to a maximum of ninety (90) days.

Section 12. TEMPORARY APPOINTMENTS. If necessary to prevent the stoppage of public business or inconvenience to the public, but not otherwise, the chief examiner, with the approval of the commission, may authorize the filling of a position by provisional appointment pending the establishment of a re-employment or employment list. No person who does not possess the minimum required qualifications for such position as may be prescribed by the commission shall be permitted to serve in such temporary position. Such provisional appointment shall continue only until the establishment of a re-employment or employment list. In no case shall such appointment exceed a total of four months. No person shall receive more than one provisional appointment or serve more than four months as a provisional appointee in any one fiscal year. In case of an emergency, an appointment may be made of not to exceed five days' duration, which appointment shall be immediately reported to the commission.

Section 13. CIVIL SUITS. It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this act and of the rules of the commission and to defend all civil suits which may be brought against the commission. The commission shall be represented in such suits by the chief legal officer of the city, but said commission may in any case be represented by special counsel appointed by it.

Section 14. FALSE MARKING, GRADING, ETC., PROHIBITED. No commissioner or any other person shall, by himself or in co-operation with one or more persons, defeat, deceive, or obstruct any person in respect of his right of examination or registration according to the rules and regulations prescribed by the commission pursuant to the provisions of this act, or falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified pursuant to the provisions of this act, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish to any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered, or certified, or to be examined, registered, or certified, or personate any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration, or application or request to be examined or registered.

Section 15. SOLICITING PROHIBITED. No officer, agent, clerk or employee in the service of the national government or the public service of the state, or any civil division thereof, including counties, cities, and towns, shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution, whether voluntary or involuntary, for any political purpose whatsoever, from any one of the eligible list of the classified civil service coming under the provisions of this act or any one holding any office, place, position, or employment under civil service. Every officer, agent, clerk, or employee under the government of said city who may have charge or control in any building, office, room, or place occupied for any purpose by said city government is hereby authorized to prohibit the entry of any person, and he 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 such building, office, room or place, 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, or receive any such assessment, subscription, or contribution contrary to the provisions of this section.

Section 16. RECOMMENDATION OF APPLICANTS. No recommendation, other than allowed by the rules of the commission, in favor of any person who shall apply for any office, place, position, or employment under civil service, or for examination or registration under the provisions of this act, or the rules or regulations adopted by the commission pursuant thereto, except as to residence, and as to character, and, in case of former employees, as to ability, when such recommendation as to character or ability is specifically required by said rules and regulations, shall be given to or considered by any person concerned in making any examination, registration, appointment, or promotion under the provisions of this act or the rules or regulations adopted thereunder. No recommendation under the authority of this act shall relate to the religious or political opinions, affiliations, or services of any person whomsoever, nor shall any appointment, change in, or removal from, any office, place, position, or employment under the provisions of this act be in any manner affected or influenced by such opinions, affiliations, or service.

Section 17. POLITICAL SERVICES DISREGARDED AND PROHIBITED. No person holding any office, place, position, or employment subject to civil service is under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing to do so. No public officer, whether elected or appointed, shall discharge, promote, demote, or in any manner change the official rank, employment, or compensation of any person under civil service, or promise or threaten so to do, for giving or withholding or neglecting to make any contribution of money or services or any other valuable thing for any political purpose.

Section 18. Whoever, being a public officer or being in nomination for, or while seeking a nomination or appointment for, any public office, shall use or promise to use, whether directly or indirectly, any official authority or influence, whether then possessed or merely anticipated, in the way of conferring upon any person, or in order to secure or aid any person to secure any office or appointment under civil service as provided for by this act, or any nomination, confirmation, or promotion or increase of salary on consideration that the vote, political influence, or action of the last named person or any other shall be given or used in behalf of any candidate, officer, or political party or association, or upon any other corrupt condition or consideration, shall be deemed guilty of a violation of this act.

Section 19. EMPLOYEES AND ELIGIBLES NOT TO BECOME CANDIDATES FOR ELECTION WHILE UNDER CIVIL SERVICE. No person employed under civil service, or registered on the eligible list of the classified civil service, coming under the provisions of this act, shall be a candidate for popular election to any public office, unless such person shall immediately resign from the office, place, position, or employment which he then holds under civil service, or, in the case of persons on the eligible list of the classified civil service, unless such persons shall immediately have their names stricken from such eligible list. Any person who shall be a candidate for popular election to any public office contrary to the provisions of this section shall forfeit all right to the office, place, position, or employment which he then holds under civil service or may have on the eligible list of the classified civil service.

Section 20. TENURE OF OFFICE OF CIVIL SERVICE EMPLOYEES AND CAUSES AND MANNER OF DISCHARGE. The tenure of every one holding an office, place, position, or employment under the provisions of this act shall be only during good behavior, and any such persons may be removed or discharged for any of the following causes:

- (a) Incompetency, inefficiency, or inattention to or dereliction of duty.
- (b) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct himself; or any willful violation of the provisions of this act or the rules and regulations to be adopted hereunder.
- (c) Mental or physical unfitness for the position which the employee holds.
- (d) Dishonest, disgraceful, immoral, or prejudicial conduct.
- (e) Habitual, gross drunkenness or use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid, or preparation to such an extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes or might preclude the employee from properly

performing the functions and duties of any position under civil service.

(F) Conviction of a felony or a misdemeanor involving moral turpitude.

Section 21. REMOVAL. No person in the classified civil service who shall have been permanently appointed or inducted into service under the provisions of this act shall be removed or discharged except for cause, and only upon the written accusation of the appointing authority, or any citizen or taxpayer, a written statement of which accusation in general terms shall be served upon the accused and a duplicate filed with the commission. Any person so removed or discharged may within ten days from the time of his removal or discharge file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether such removal or discharge was or was not made for political or religious reasons and was or was not made in good faith, for cause. After such investigation the commission may affirm the removal, or, if it shall find that the removal was made for political or religious reasons or was not made in good faith for cause, shall order the immediate reinstatement or re-employment of such person in the office, place, position, or employment from which such person was removed or discharged, which reinstatement shall, if the commission so provides in its discretion, be retroactive and entitle such discharged person to pay or compensation from the time of such removal or discharge. The commission, upon such investigation, in lieu of affirming the removal or discharge, may modify the order of removal or discharge 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 authority and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to the provisions of this section shall be by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel and presenting his defense. If such judgment or order be concurred in by the commission or a majority thereof, the accused may appeal therefrom to the Circuit Court of Linn County, Oregon. Such appeal shall be taken by serving upon the commission, within thirty days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to such judgment or order be filed by the commission with such court. The commission shall, within ten days after the filing of such notice, make, certify, and file such transcript with such court. The circuit court shall thereupon proceed to hear and determine such appeal in a summary manner and its decision shall be final; provided, however, that such hearing shall be confined to the determination of whether the judgment or order of removal, discharge, demotion, or suspension, made by the commission, was or was not made for political or religious reasons and was or was not made in good faith for cause; and no appeal to such court shall be taken except upon such ground or grounds.

Section 22. SUSPENSION. Any appointing authority may, without hearing or trial, peremptorily suspend any subordinate for cause for a reasonable period, not exceeding thirty days, with loss of salary or other compensation. No such 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 authority a written answer and explanation of such charges and filing a copy of the same with the commission or any other tribunal. No appointing authority shall be authorized to suspend the same subordinate more than twice, or for a total of more than 45 days, during any one year.

Section 23. OFFICIAL ROSTER. It shall be the duty of each appointing authority to report to the commission forthwith upon each appointment the name of the appointee, the title or character of the office, place, position, or employment to which the appointment is made, the date of the commencement of service, and the salary or compensation therefore, and to report from time to time, and upon the date of official action in, or knowledge of, each case, any separation of any person from any office, place, position, or employment, or other changes, and to furnish such other information as the commission may require in order to keep the roster hereinafter mentioned. The commission shall keep in its office an official roster of all persons holding offices, places, positions, and employments under the provisions of this act and shall enter therein all appointments, promotions, demotions, transfers, reinstatements, resignations, suspensions, leaves of absence, removals, and discharges, setting forth in each instance the date of commencement or termination of service, or other change, the nature of the duties performed, and the salary or compensation therefore, together with sufficient information to show why and how such appointments or other changes were made. The said roster shall be kept so as to disclose readily to any one desiring to inspect the same all the said

matters in connection with each office, place, position, or employment subject to civil service and in connection with persons employed therein. It shall be the duty of the commission to certify to the council the name of each person appointed or employed in the classified civil service, stating in each case the title or character of the office, place, position, or employment held by such person, the salary or compensation paid, and the date of the commencement of service, and also, so far as practicable, the name of each person employed in violation of this act or the rules and regulations established thereunder, and to certify to the council in like manner every change occurring in any place, office, position, or employment held by any person in the classified civil service forthwith on the occurrence thereof. No officer or employee of the city of Albany, so far as it concerns employees subject to civil service, shall draw, sign, countersign, issue, authorize, or honor any warrant or order for the payment of, or pay, any salary or compensation to any person in the classified civil service who is not certified by the commission to the council as hereinbefore provided. Any person entitled to be certified as aforesaid may maintain a proceeding by mandamus to compel the issuance of such certificate. Any sum paid contrary to the provisions of this section may be recovered in an action in the name of the city from any officer or employee of such city paying the same, or from any officer signing, countersigning, drawing, or issuing, or authorizing the drawing, signing, countersigning, or issuing of any warrant or order for the payment thereof, and from the sureties on his official bond. All moneys recovered in such action must, when collected, after paying all expenses of such acting, be paid into the city treasury.

Section 24. DUTY OF ALL OFFICERS AND EMPLOYEES TO ASSIST THE COMMISSION. It shall be the duty of all city officers and employees of the city to aid in all proper ways in carrying out the provisions of this act, and such rules and regulations as may, from time to time, be prescribed by the commission thereunder, and to afford the commission, its members, and employees all reasonable facilities and assistance to inspect all books, papers, documents, and accounts applying or in any way appertaining to any and all offices, places, positions, and employments subject to civil service, and also to produce said books, papers, documents, and accounts, and attend and testify whenever required so to do by the commission or any commissioner.

Section 25. REPORTS BY THE COMMISSION. The commission shall investigate and report annually to the city council concerning the administrative needs of the service, the personnel, and positions in the service, and the compensation provided therefor, the examinations held by the commission, the appointments made, service ratings and removals in the civil service, the operations of the rules of the commission, and recommendations for promoting efficiency and economy in the service, with details of expenditure and progress of work. The council may require a report from said commission at any time respecting any matter within the scope of its duties hereunder. The records of the commission shall be open to public inspection by any citizen under reasonable supervision.

Section 26. APPROPRIATIONS. It shall be the duty of the council to make adequate appropriations to enable the commission properly to carry out the purposes of this act. It shall be the duty of all officers of the city to allow the reasonable use of public buildings and rooms for the holding of any examinations or investigations provided for by this act and in all possible ways to facilitate the work of the civil service commission.

Section 27. Any willful violation of any provisions of this act shall be deemed a misdemeanor punishable upon conviction by a fine of not less than \$25.00 nor more than \$1000.00 or by imprisonment not to exceed six months or by both such fine and imprisonment.

Section 28. INTERPRETATION OF ACT. The provisions of this act shall be liberally construed, to the end that the intent and purposes thereof may be given effect, and particularly to the effect that both the fire department and police department of the city of Albany shall be operated under the civil service rules and regulations herein provided, and in case any subdivision of this ordinance shall refer particularly to either the fire department or the police department, such reference shall be construed in each instance as covering both departments.

Section 29. CONSTITUTIONALITY OF ACT. If any section, subsection, subdivision, sentence, clause, or phrase of this act shall for any reason be held to be unconstitutional, such decision shall not effect the validity of the remaining portions of the provisions of this act.

Section 30. REPEAL OF CONFLICTING ACTS. All acts and parts of acts in conflict with the provisions of this act are hereby repealed insofar as they conflict with the provisions of this act.

Section 31. The foregoing act comprising 30 sections in all shall be designated and hereafter referred to as article XVII of the charter of the City of Albany, Oregon.