INTRODUCED: March 6, 2023

AN ORDINANCE No. 2023-075

To repeal City Code § 2-1265, concerning personnel rules; to amend City Code §§ 1-4, concerning miscellaneous ordinances not affected by the City Code, 2-927, concerning general powers and duties of the Personnel Board, 2-1210, concerning publication of certain hiring policies, 2-1264, concerning the creation of the personnel system, 2-1289, concerning classified service, 2-1293, concerning prohibited practices, 2-1295, concerning prohibited working relationships between family members, 2-1301.2, concerning definitions, and 26-103, concerning the general powers and assistants for the City Assessor; and to repeal Ord. No. 2013-10-98, concerning personnel rules for the classified service.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: MAR 27 2023 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That section 2-1265 of the Code of the City of Richmond (2020) be and is hereby **repealed** as follows:

[~~Sec. 2-1265. Personnel rules.~~

~~(a) Either the Mayor or the Personnel Board may initiate proposed personnel rules or amendments thereto. For any personnel rule or amendment initiated by the Personnel Board, it shall conduct a public hearing. Prior to conducting the public hearing, the Personnel Board shall~~

AYES:	9	NOES:	0	ABSTAIN:	
ADOPTED:	MAY 8 2023	REJECTED:		STRICKEN:	

~~solicit comments from the Mayor. Following its public hearing, the Personnel Board shall forward its comments and recommendations to the Council and the Mayor as provided for in Code of Virginia, § 15.2-1131. The City Mayor shall forward the recommendations of the Personnel Board, along with the Mayor's comments and recommendations, to the Council within 30 days of the Mayor's receipt of such recommendations.~~

~~(b) Prior to the Council's consideration of any personnel rule or amendment initiated by the Mayor, such rule or amendment shall first be referred by the City Council to the Personnel Board for a public hearing. Such public hearing shall be held by the personnel board within 30 days of the City Council's referral. Notice of such hearing shall be posted by the Personnel Board at City work facilities. Within 30 days following its public hearing, the Personnel Board shall forward to the City Council and Mayor its comments and recommendations regarding the proposed rule or amendment.~~]

§ 2. That sections 1-4, 2-927, 2-1210, 2-1264, 2-1289, 2-1293, 2-1295, 2-1301.2, and 26-103 of the Code of the City of Richmond (2020) be and are hereby **amended** and reordained as follows:

Sec. 1-4. Miscellaneous ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect the following, unless expressly declared by this Code:

(1) Any ordinance or resolution promising or guaranteeing the payment of money by or on behalf of the City.

(2) Any ordinance or resolution authorizing any contract, agreement or other contractual obligation to which the City is a party.

(3) Any ordinance or resolution authorizing the issuance of bonds or other evidences of debt of the City.

(4) Any ordinance authorizing, providing for, or otherwise relating to any public improvement or any special assessment.

(5) Any ordinance or resolution granting a franchise, right, privilege, license or permit to use any public property or facility or any other property owned or controlled by the City.

(6) Any ordinance or resolution relating to the establishment of a single school district in and for the City, and the ownership, control and use of property devoted to public school purposes.

(7) Any ordinance or resolution concerning the management, control and administration of the affairs of the City government.

(8) Any ordinance or resolution concerning the appropriation or expenditure of money.

(9) Any ordinance or resolution levying or imposing taxes.

(10) Any ordinance or resolution concerning [~~personnel rules and regulations,~~] pay plans, retirement programs or the salaries or wages of officers and employees.

(11) Any ordinance or resolution relating to routes and schedules prescribed for motorbus transportation within the City and rates of fare that may be charged for transportation within the City and rates of fare that may be charged for transportation thereon.

(12) Any ordinance annexing territory to the City.

(13) Any ordinance or resolution pertaining to traffic regulations on specific streets.

(14) Any ordinance relating to the zoning map or zoning or rezoning specific property.

(15) Any section of an ordinance if such section does not amend the Code of the City of Richmond, Virginia, 2020.

Sec. 2-927. General powers and duties.

The Personnel Board shall have the power and shall be required to[~~:~~

~~(1) Serve~~] serve as a hearing panel and hear appeals of grievances filed by any employee in the classified service pursuant to procedures established by the City in compliance with Code of Virginia, § 15.2-1507. The hearing decisions of the personnel board shall be in writing and shall contain findings of fact as to the material issues in each case and the basis for the Board's findings.

[~~(2) Review and hold public hearings on any proposed personnel rules and forward to the City Council and the Mayor its comments and recommendations relating to any such proposed personnel rule.~~

~~(3) Investigate any or all matters relating to conditions of employment in the service of the City.~~

~~(4) Receive and investigate complaints regarding alleged discrimination based on race, color, pregnancy, childbirth, or related medical conditions, religion, national origin, sex, age, political affiliation, gender identity, marital status, sexual orientation, status as a veteran, and disability from individual employees relating to such individual's employment with the City. While all employees, regardless of classification or status, may file a complaint with the Personnel Board concerning alleged discrimination, this section is not intended to and does not create any additional rights, including grievance rights or property rights in employment, for unclassified or nontenured classified employees. The means and method of filing complaints shall be prescribed by the personnel rules, provided that, in addition to the complaint procedure established, tenured classified employees may also raise discrimination complaints using the grievance process established in the~~

~~personnel rules. The Personnel Board, however, shall have final decision-making authority about how to review and investigate all complaints. The Board may utilize methods of persuasion, conciliation and mediation designed to promote adequate resolution of the dispute.~~]

Sec. 2-1210. Publication of certain hiring policies.

This section applies only to covered departments. The term "covered department" means either the Department of Police or the Department of Fire and Emergency Services. If a covered department applies any hiring policies, processes or criteria in addition to those set forth in this Code[~~, the personnel rules~~] or other applicable law, the covered department shall maintain such hiring policies, processes or criteria in a written form available to the public. Publication of such hiring policies, processes or criteria by posting on the City's website is encouraged. All applicants for positions in a covered department shall be informed in writing of whether the covered department applies such hiring policies, processes or criteria and, if the covered department does apply such hiring policies, processes or criteria, of the location where applicants may examine a copy of such hiring policies, processes or criteria. The requirements of this section shall not apply to tests or examinations used to evaluate an applicant's qualifications or aptitude for employment that the City may lawfully withhold from public disclosure pursuant to the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.).

Sec. 2-1264. Created.

Pursuant to Code of Virginia, § 15.2-1131, the Council establishes a personnel system for the City's administrative officers and employees. Such personnel system shall be based on merit and professional ability and shall not discriminate on the basis of race, national origin, gender identity, religion, sex, age, pregnancy, childbirth, or related medical conditions, disabilities, sexual

orientation, status as a veteran, political affiliation or marital status. [~~The personnel system shall consist of rules which provide for the general administration of personnel matters, classification plans for employees, uniform pay plans and a procedure for resolving grievances of employees as provided by general law for either local government or State government employees.~~]

Sec. 2-1289. Classified service.

The classified service shall comprise all positions, including those in the police and fire departments, not specifically included in the unclassified service. [~~The administration of the classified service shall be governed by the personnel rules for the classified service as adopted by the Council.~~]

Sec. 2-1293. Prohibited practices.

(a) No person shall willfully or corruptly make any false statement, certificate, mark, rating or report in regard to any test held or certification or appointment made under the personnel provisions of this article or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions [~~or of the rules made thereunder~~].

(b) No officer or employee in the classified service of the City shall continue in such position after becoming a candidate for nomination or election to an office elected by voters of an election district which includes all or a part of the City or by the voters at large of the City for a constitutional office serving only the City.

(c) No person seeking appointment to or promotion in the classified or unclassified service of the City shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for or on account of or in connection with such person's test, appointment, proposed appointment, promotion or proposed promotion.

(d) Electioneering in any City office, building or premises during working hours applicable thereto is hereby prohibited.

(e) Any person who, alone or with others, willfully or corruptly violates any of the subsections of this section shall be guilty of a Class 2 misdemeanor. Any person who is convicted under this section shall, for a period of five years, be ineligible for appointment to or employment in a position in the City service and shall, if such person is by an officer or employee of the City, immediately forfeit the office or position such person holds.

Sec. 2-1295. Prohibited working relationships between family members.

(a) *Appointment or employment.* No officer or employee of the City, whether classified, unclassified or otherwise, shall appoint or employ, or cause to be appointed or employed, any relative of such officer or employee to any position, classified or unclassified, within a department or other agency under the direct or indirect supervision of such officer or employee.

(b) *Supervisor-subordinate relationship.* No officer or employee of the City, whether classified, unclassified or otherwise, shall place any two persons related to each other as relatives in a supervisor-subordinate relationship in the same agency [~~except as may be specifically authorized in accordance with applicable provisions of the personnel rules~~].

(c) *Acceptance of appointment or employment.* No person shall accept appointment to or employment in any position within the City from any officer or employee, whether classified, unclassified or otherwise, of the City when that officer or employee is a relative of such person.

(d) *Definition of "relative."* For purposes of this section, the word "relative" refers to any of the following relationships, whether by blood, marriage, adoption or a step-relationship: spouse, parent, grandparent, child, grandchild, brother, sister, niece, nephew, or first cousin.

(e) *Violation and penalty.* Any person who acts in violation of any of the subsections of this section when he knows or should know that such act constitutes such a violation shall be guilty of a Class 4 misdemeanor.

(f) *Ineligibility and forfeiture.* Any person who is convicted under this section shall, for a period of five years, be ineligible for appointment to or employment in a position in the City service and shall, if such person is an officer or employee of the City, immediately forfeit the office or position such person holds.

Sec. 2-1301.2. Definitions.

As used in this division, the following terms shall have the meanings ascribed to them in this section:

Administrative employee means an employee whose primary duty is the performance of office or non-manual work directly related to or in furtherance of the management or general business operations and services of the City.

Arbitration means the procedure by which the City and an exclusive bargaining representative when involved in a labor-management dispute, as defined in this section, submit their differences to a third party for a final and binding decision subject to the provisions of this division.

Benefits means, for the purpose of this division, all forms of non-wage compensation, leave (including paid and unpaid, vacation, and holidays), insurance (including contributions and levels of coverage), general supplemental retirement plans, and police and fire retirement plans presently made available under City authority.

City means the City of Richmond acting through the Chief Administrative Officer or the Chief Administrative Officer's designee.

Collective bargaining means to perform the mutual obligation of the City, by its representatives, and the exclusive bargaining representative of employees in an appropriate bargaining unit to meet and negotiate in good faith at reasonable times and places regarding wages and benefits, as the term benefits is defined herein, hours, and other terms and conditions of employment, including procedures to resolve employee grievances with the good faith intention of reaching an agreement of no shorter duration than three years and remaining in effect until superseded by a new agreement.

Collective bargaining agreement means the written legal contract between the City and an exclusive bargaining agent representing the employees in a bargaining unit authorized by this division and resulting from collective bargaining as defined in this section.

Confidential employee means any employee who works:

(1) Directly for a member of the City Council;

(2) For the Mayor;

(3) In the Office of the City Assessor, the Office of the City Attorney, the Office of the City Auditor, the Office of the City Clerk, the Office of the Council Chief of Staff, or the Office of the Inspector General;

(4) In the Department of Human Resources or any other department in which the employee directly assists and acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations; or

(5) In the Department of Budget and Strategic Planning;

Employee means any employee of the City, except it does not include anyone who is:

(1) An employee of the courts or of any officer elected pursuant to article VII, section 4 of the Constitution of Virginia;

(2) A confidential employee, as defined in this section;

(3) A managerial employee, as defined in this section;

(4) A supervisor, as defined in this section;

(5) A temporary or seasonal employee, as defined in this section;

(6) An intern or volunteer;

(7) A member of a board or commission, or other appointee of any public body as defined by Virginia law who is not otherwise an employee of the City; or

(8) An attorney whose responsibilities include providing legal advice to the City or performing legal research for the City as a client.

Employee organization means an organization in which employees participate, and that exists for the purpose, in whole or in part, of representing employees in collective bargaining concerning labor disputes, wages, hours, and other terms and conditions of employment.

Exclusive bargaining representative, exclusive bargaining agent, and *bargaining agent* mean the employee organization recognized by the City as the only organization to bargain collectively for all employees in a bargaining unit.

Impasse means the failure of the City and an exclusive bargaining representative to agree upon the terms of a first or successor collective bargaining agreement in the course of collective bargaining negotiations.

Labor-management dispute means an action challenged as a prohibited practice under this division; a dispute as to the negotiability of subject matters; and question of eligibility of disputes for resolution by mediation or impasse arbitration. It shall not mean disciplinary or other adverse personnel actions within the meaning of Code of Virginia, § 15.2-1507(A)(1), as implemented by

[~~any personnel rules adopted pursuant to section 2-1265 or~~] a grievance filed pursuant to a negotiated grievance procedure.

Lockout means any action taken by the City intended to interrupt or prevent the continuity of work properly and usually performed by employees for the purpose of coercing or intimidating employees in the exercise of their rights conferred by this division, or influencing their exclusive bargaining agents' positions in collective bargaining contract negotiations.

Managerial employee means any individual who:

(1) Has responsibility for a unit or sub-unit of a division of an agency or department;

(2) Participates in the formulation of policy;

(3) Is significantly engaged in executive or management functions;

(4) Is charged with the responsibility of directing the implementation of management policies, procedures or practices; or

(5) Is involved in administration of collective bargaining agreements or human resources or personnel decisions, including, but not limited to, staffing, reductions-in-force or layoffs, reorganizations, hiring, discipline, evaluations, pay, assignments, transfers, promotions or demotions.

Mediation means an effort by a neutral, third-party chosen under the terms of this division to assist confidentially in resolving an impasse, as defined in this section, arising in the course of collective bargaining between the City and the exclusive bargaining agent of a bargaining unit, or the first step prior to arbitration of a labor-management dispute other than a prohibited practice claim or charge.

Professional employee means an employee exempt from the Fair Labor Standards Act pursuant to the Fair Labor Standards Act definition of a professional employee.

Seasonal employee means an employee who is hired into a position for which the customary annual employment is three months or less and for which the period of employment begins each calendar year in approximately the same part of the year, such as summer or winter, for reasons related to work demands that arise during those parts of the year.

Supervisor means any individual who customarily and regularly devotes a majority of work time to supervision of two or more employees and has authority to hire, transfer, suspend, layoff, recall, promote, demote, discharge, assign, evaluate, reward or discipline other employees, or adjust grievances, or effectively to recommend any such actions. With respect to the Department of Fire and Emergency Services, "supervisor" includes all personnel at the rank of battalion chief or above. With respect to the Department of Police, "supervisor" includes all personnel at the rank of captain or above.

Strike means any strike or willful refusal to perform the duties of an employee's employment that would be deemed to terminate that employee's employment pursuant to Code of Virginia, § 40.1-55.

Technical employee means an individual whose work requires a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized postsecondary school education or through equivalent on-the-job training.

Temporary employee means an individual who is employed by the City for not more than 150 consecutive days.

Sec. 26-103. General powers; assistants.

The Assessor shall have the general management and control of the assessment of real estate for taxation. To assist in the performance of the Assessor's duties, the Assessor shall appoint a Deputy Assessor and such appraisers, clerks and other employees as shall be authorized by the City Council who shall be members of the classified service and shall be appointed and removed subject to [~~the City's personnel rules~~] applicable laws and regulations. The Deputy Assessor, appraisers, clerks and other employees shall be responsible to the Assessor for the efficient performance of duties assigned to them by the Assessor.

§ 3. That Ordinance No. 2013-10-98, adopted May 28, 2013, which adopted personnel rules for the classified service, be and is hereby **repealed**.

§ 4. This ordinance shall be in force and effect on July 1, 2023.

A TRUE COPY:
TESTE:

City Clerk