

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 981**

Amending MCC Chapter 9, County Employment to Reorganize, Clarify and Update Chapter

**Multnomah County Ordains as follows:**

MCC Chapter 9, County Employment, is amended to read as follows:

**§ 9.000 GENERAL PROVISIONS**

**§ 9.010 Definitions.**

The following definitions apply for this chapter and county rules unless the context requires a different meaning.

***AFFIRMATIVE ACTION.*** Identifying existing or potential discriminatory conditions and making specific goal oriented corrective actions to eliminate and prevent unlawful discrimination.

***APPEAL.*** A request for hearing filed with the executive secretary of the Merit System Civil Service Council.

***APPOINTMENT.*** All methods of selecting or employing any person to hold a position in county service.

***BARGAINING AGENT.*** Labor organization certified or recognized as the exclusive representative for purposes of collective bargaining under ORS 243 for all county employees in an appropriate bargaining unit.

***CAUSE.*** Misconduct, inefficiency, incompetence, insubordination, indolence, malfeasance or other unfitness to render effective service.

***CLASS or CLASSIFICATION.*** A group of positions in the county service sufficiently similar in duties, authority and responsibility to permit grouping under a common title that would call for similar qualifications and the same schedule of pay.

***CLASSIFICATION PLAN.*** A document that contains all county service classes, and the specifications or descriptions for the classes.

***CLASSIFIED EMPLOYEE.*** An employee in county service not excepted by this chapter from classified service, but does not include temporary employees or those who work on call or less than half time.

***CLASSIFIED SERVICE.*** All regular county service positions held by classified employees.

**COMPENSATION PLAN.** Salary, wages, special pay provisions and paid benefits.

**CONFIDENTIAL EMPLOYEE.** A classified employee not covered by a collective bargaining agreement solely because of the confidential nature of collective bargaining work duties.

**COUNCIL.** The Merit System Civil Service Council.

**COUNTY SERVICE.** County employees in classified and unclassified positions.

**DIRECTOR.** The head of a department appointed by the Chair with the consent of the Board, and for employment purposes the Sheriff, Auditor, District Attorney and County Attorney, or designees.

**DISCRIMINATION COMPLAINT.** A complaint that a personnel action was motivated by discrimination on the basis of race, religion, sexual orientation, sex, age, color, marital status, national origin, physical or mental disability, gender identity, familial status, source of income or political affiliation.

**DISTRICT ATTORNEY.** State official elected by the voters of Multnomah County who has the powers and performs the duties of state law, including enforcement of local laws.

**DISTRICT ATTORNEY EXECUTIVE STAFF.** Employees in positions that report directly to and serve at the pleasure of the District Attorney. These employees have the same rights and benefits as county elected officials' staff.

**ELECTED OFFICIAL.** Chair, Commissioner, Auditor, and Sheriff.

**ELECTED OFFICIAL'S STAFF.** Employees in positions that report directly to and serve at the pleasure of a county elected official and serve as such official's immediate secretary, administrative, legislative, or other immediate or first-line assistant.

**ELIGIBLE.** A person qualified for employment by examination or other methods.

**ELIGIBLE LIST.** A list of persons found qualified for appointment to a position in a particular class.

**EXAMINATION.** Any test, method or combination of methods used to determine the fitness and qualifications of applicants for county service.

**EXECUTIVE EMPLOYEE.** Employee with a major role in the administration or formulation of policy that requires the exercise of independent judgment and includes all positions excepted by this chapter from the classified service.

**EXECUTIVE SECRETARY.** The executive secretary of the Merit System Civil Service Council.

**FAMILIAL STATUS.** Has the meaning as provided in ORS 659.010(9).

**GENDER IDENTITY.** A person's actual or perceived sex, and includes a person's identity, appearance or behavior whether or not that identity, appearance or behavior is different from that traditionally associated with the person's sex at birth.

**GRIEVANCE.** A complaint filed under the terms of an existing collective bargaining agreement.

**JOB DESCRIPTION.** A description of an individual position that contains the duties, responsibilities, skill and ability requirements of the individual position.

**LAYOFF.** A reduction of the county work force.

**MANAGEMENT EMPLOYEE.** Employee with a role in the administration of the county, a supervisor, or a professional, paraprofessional or confidential employee who is not covered by a collective bargaining agreement. These positions are designated by the Chair and are classified but nonrepresented.

**NONREPRESENTED EMPLOYEE.** An employee in a position not covered by a collective bargaining agreement.

**ON-CALL EMPLOYEE.** A person employed to meet intermittent, irregular or less than half-time county work needs.

**PERSONNEL ACTION.** Any employment action taken by the county with reference to an employee or position.

**PERSONNEL OFFICER.** The county Chair, or designee.

**PROBATIONARY PERIOD.** A working test period during which a classified employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of that position.

**PROMOTION.** A movement of an employee to a classification that has a higher maximum rate than the employee's current classification.

**PROMOTION LIST.** A list of persons found qualified by a promotion test for appointment to a position in a particular class.

**RECALL LIST.** A list of employees laid off from positions in particular classes that have rights for appointment to a position in that class.

**RECLASSIFICATION.** The assignment of an existing position from one to another class of work.

**REGULAR EMPLOYEE.** The status a classified employee acquires after successful completion of the probationary period for the particular position to which the employee was appointed.

**REGULAR POSITION.** A county service position budgeted for each fiscal year.

**REPRESENTED EMPLOYEE.** An employee in a position covered by a collective bargaining agreement.

**SEXUAL ORIENTATION.** Actual or supposed male or female heterosexuality, homosexuality or bisexuality.

**SOURCE OF INCOME.** The means by which a person and dependents are supported, including but not limited to money and property from any occupation, profession or activity, from any contract, settlement or agreement, from federal or state payments, court-ordered payments, gifts, bequests, annuities, life insurance policies, and compensation for illness or injury, but excluding any money or property derived in an illegal or criminal manner.

**TEMPORARY EMPLOYEE.** A person employed to meet short term, non-recurring or emergency county work needs.

**TRANSFER.** Movement from one position to another with the same maximum pay rate.

**UNCLASSIFIED EMPLOYEE.** An employee excepted from the classified service by this chapter, but does not include temporary employees or those who work on call or less than half time.

## **§ 9.020 Merit Policy**

(A) This chapter defines county employees in classified service, sets forth the rights and privileges of those employees and those persons desirous of being considered for classified service, and states county obligations for a merit system of classified service.

(B) The Board established a merit system of personnel administration as required by Charter § 7.40 governing the appointment, tenure, promotion, transfer, layoff, separation, discipline and other incidents of county employment. The merit principles include:

(1) Recruiting, appointing and promoting employees on the basis of their relative ability, knowledge and skills, including open consideration of qualified applications for initial appointment;

(2) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance and separating employees whose inadequate performance cannot be corrected;

(3) Assuring impartial treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, religion, gender identity, familial status, source of income, color, sex, sexual orientation, age, physical or mental disability, marital status or national origin, and with proper regard for their privacy and constitutional rights as citizens; and

(4) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election to or a nomination for office.

**§ 9.030 Personnel Rules.**

The personnel rules of the county may be adopted by Board resolution or by Chair executive rule.

**§ 9.040 Administration.**

The county functions imposed by this chapter will be performed or enforced by the Chair, who must adopt executive rules to implement the provisions of this chapter.

**§ 9.050 Labor Organizing and Collective Bargaining.**

The Board recognizes the rights of county employees to organize or refrain from organizing, and recognizes and affirms the principle of collective bargaining to establish wages, hours and working conditions. Nothing in this code prohibits the county and bargaining representative from executing fair share agreements.

**§ 9.060 Equal Employment Opportunity.**

(A) Discrimination is prohibited in any employment action on the basis of race, color, gender identity, source of income, sex, sexual orientation, familial status, marital status, age, religion, national origin, political affiliation or physical or mental disability, except when it constitutes bona fide occupational qualification.

(B) All decisions on employment and promotion for classified service will be made in accordance with the principles of equal opportunity by utilizing job-related requirements for these opportunities.

(C) No question in any application or request for recommendation or in any test may elicit information concerning any subject listed in subsection (A), nor may any inquiry be made concerning those subjects.

**§ 9.070 Conformance With Law.**

This chapter does not substitute for or eliminate the need to conform to all county, state and federal equal employment opportunity laws and rules.

**§ 9.110 Classified Service Exceptions.**

The county classified service includes all county employees except the following:

- (A) Elected officials and elected officials' staff;
- (B) Department directors, division heads and employees designated executive employees by the Chair;
- (C) County attorney and assistant county attorneys;
- (D) Executive assistants who report directly to and serve at the pleasure of department directors or the county attorney;
- (E) Deputy district attorneys;
- (F) Temporary employees and those who work on-call or less than half time.

**§ 9.120 Classified Service.**

(A) The classified county service is comprised of all county positions that are not excepted from the classified service by this chapter.

(B) Unclassified county positions may be filled by classified employees. Except as provided in subsection (C) for sworn law enforcement officers and correction officers, and subsection (D) for other classified employees, classified employees so appointed forfeit their status as classified employees, and all related rights. Any such employee must submit to the Chair a signed statement acknowledging notice of this provision and waiving classified status before unclassified appointment. The Chair will provide such notice, and secure the signed statement prior to the appointment.

(C) After termination of service in an unclassified position, a sworn law enforcement officer or corrections officer appointed to the unclassified service upon request will be restored to the employee's status in the classified service without loss of benefits. This does not apply if the employee was terminated under circumstances that would have constituted cause for termination in the classified service, as determined by the council.

(D) After termination of service in an unclassified position, any other classified employee appointed to the unclassified service upon request will be restored to the employee's status in the classified service without loss of benefits under any of the following circumstances:

(1) Termination within six months from the time of appointment in an unclassified position, unless the employee was terminated under circumstances which would have constituted cause for termination in the classified service, as determined by the council;

(2) Termination due to elimination of the unclassified position within two years of appointment; or

(3) Voluntary demotion from the unclassified to the classified service with the recommendation of the department director and approval of the Chair.

**§ 9.130 Classification Plan.**

The Chair must prepare and maintain a classification plan that groups all positions in the classified service in classes based on their duties, authority and responsibilities. Each class of positions will have a class title, a statement of the duties, authority and responsibilities, and a statement of the required knowledge, skills and abilities. Each class may be subdivided and classes grouped and ranked.

**§ 9.140 Positions and Appointments.**

The Chair must adopt executive rules that define types of positions, and status of employees. They must set forth methods to fill positions, reduce the number of positions and employees, and determine length of probationary periods within the classified service. Types of positions and appointments include permanent, temporary, seasonal, on-call, part-time or limited duration. Probationary periods must be established to allow adequate time for employees to demonstrate ability to perform the work of the positions.

**§ 9.150 Examinations.**

(A) The Chair may formulate, validate and conduct examinations for positions in the classified service. The Chair may designate certain positions in specified career fields as training or apprentice positions from which promotion may be made to the next higher position without competitive examination upon completion of established training criteria and the incumbent's meeting of the minimum qualifications.

(B) Examinations must be competitive, job-related and of such character as to determine the qualifications, competence and ability of the persons tested to perform the duties of the class of positions for which a list is to be established.

(C) Examination procedures may be modified to accommodate disabled persons who are regarded as having a physical or mental impairment that limits one or more major life activities.

(D) Admission to tests must be open to all persons whose applications demonstrate the required qualifications and may be lawfully appointed to a position in the class for which a list is to be established. Qualification will be specified at the time of announcement.

**§ 9.160 Compensation Plan.**

(A) The Chair must maintain a compensation plan. The compensation plan revisions are subject to approval of the Board if costs of the revision exceed department or county budgets, or if the revisions are subject to negotiation with appropriate bargaining agents under state law.

(B) It is county policy to establish a compensation plan that provides pay and benefits necessary for the county to recruit, select, and retain qualified employees who are not part of a bargaining unit; recognizes employee performance, growth, and development; maintains an appropriate internal relationship among classification and employees based on job responsibilities, qualifications, and authority, and that maintains parity between equivalent nonrepresented and represented positions.

(C) The compensation plan includes the following benefits defined and implemented by Chair executive rule:

- (1) Paid holidays;
- (2) Paid leaves;
- (3) Leaves of absence without pay;
- (4) Leave-sharing programs;
- (5) Health and welfare benefits;
- (6) Educational assistance programs;
- (7) Deferred compensation programs;
- (8) Flexible spending accounts;
- (9) Pension programs;
- (10) Workers' compensation and supplemental benefits;
- (11) Other benefits to implement subsection (B); and
- (12) Other benefits approved by the Board.

**§ 9.170 Plan Maintenance.**

The Chair is responsible for developing and presenting annual compensation plan adjustment recommendations to the Board. These recommendations must be based on periodic surveys of comparable employers, internal classification relationships, financial constraints, and actual or anticipated pay adjustments for nonrepresented employees.

**§ 9.180 PERS.**

Effective July 1, 1981, county employee retirement systems were integrated into the Oregon Public Employees' Retirement System (PERS) in the interests of the public health, safety and general welfare of Multnomah County citizens and the economic welfare of county employees after retirement.

(Ord. 294, Added, 02/11/1982)

**§ 9.200 Merit Evaluations and Employment Conditions.**

(A) The Chair may maintain a merit evaluation system for all employees in classified and unclassified positions. The merit evaluation system will be based on standards of performance relative to an employee's individual assignment. Merit evaluations may be used as the basis of evaluation for any personnel action.

(B) The Chair may establish rules for management and executive employees that cover working conditions, administrative review of personnel actions, recognition and reward programs, employee benefits and other conditions of employment, which may be necessary to provide an inclusive system of personnel administration.

**§ 9.210 Personnel Files.**

(A) The Chair will establish and maintain a records system for all county employees.

(B) All personnel files are confidential and will only be disclosed within the county to aid in personnel administration.

(C) No data in personnel files may be disclosed to outside sources of inquiry except as allowed by law or with the consent of the employee.

(D) Each employee has the right to inspect those records that have been or may be used in connection with any personnel action with respect to that employee at any reasonable time.

**§ 9.220 Political Activity Prohibited.**

(A) In addition to ORS 260.432, no county employee or volunteer is obligated to contribute to any political fund or to provide any political service to any person or party. No person may be removed, reduced in grade or salary, or otherwise prejudiced for refusing to do so. No county officer or employee may discharge, promote, demote or in any manner change the rank, employment or compensation of any person under the merit system or promise or threaten to do so, for giving, withholding or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose. No county officer or employee may use official authority or influence to coerce the political action of any person or body, or to affect or interfere with any nomination, appointment or election to public office of any other person. No county employee may take part in any political activity while on duty during working hours.

(B) County employees who perform duties in connection with an activity financed in whole or in part by federal loans or grants are subject to the federal laws, rules and regulations governing political activity as administered by the United States Civil Service Commission.

**§ 9.230 Political Influence Prohibited.**

(A) No county officer and no person who is nominated or seeks nomination or appointment as a county elected official may use, or promise to use, directly or indirectly, any official authority or influence to confer upon any person, or aid any person to secure any county office or appointment, promotion or increase of salary in exchange for any political support, influence or action on behalf of any candidate, officer, political party or association or any other corrupt condition or consideration.

(B) No county elected official, county employee or person having or claiming to have authority to influence public employment, promotion, removal or increase or decrease of salary of any public officer or employee, shall corruptly use, or promise or threaten to use, any such authority or influence, directly or indirectly, to coerce or persuade any action or the removal, discharge or promotion of any county employee, or upon any corrupt consideration.

**§ 9.240 Prohibited Merit System Conduct.**

No person shall:

(A) Alone or in cooperation with others, defeat, deceive or obstruct any person about their rights under this chapter.

(B) Falsely mark, grade, estimate or report under the examination or proper standing of any person examined, registered or certified under this chapter or aid in so doing, or make any false representation concerning the same, or concerning the person examined.

(C) Furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified or to be examined, registered or certified.

(D) Impersonate any other person, or permit or aid in any manner any other person to impersonate him, in connection with any examination or registrations, or application or request to be examined or registered.

**§ 9.250 Disciplinary Action.**

Classified employees are subject to good faith disciplinary action for cause by suspension, written reprimand, demotion, and reduction in pay or dismissal. Such action may take effect only after the Director gives written notice of the action and its cause to the employee and the bargaining agent, if any. Written notice is not required when the disciplinary action is a written reprimand.

**§ 9.260 Appeals From Personnel Actions.**

Classified service employees have a right of appeal to the Merit System Civil Service Council.

(A) Any regular management employee who is reduced in pay, demoted, suspended or dismissed and who does not have an appeal procedure for the particular issue in dispute has the right to appeal the action to the council.

(B) Represented and confidential employees who do not have available a grievance procedure for a particular issue in dispute have the right to appeal to the council regarding personnel actions.

**§ 9.300\* MERIT SYSTEM CIVIL SERVICE COUNCIL**

**§ 9.310 Membership**

(A) The Civil Service Commission established by Charter consists of a Board of three members known as the Merit System Civil Service Council. Appointments to the council will be made by the Board according to the provisions of the Charter. A person appointed to fill a vacancy occurring prior to the expiration of the term of any member will be appointed for the remainder of that term.

(B) No member of the council may hold any other public or official position with the county government.

(C) No member of the council may receive compensation for services rendered.

(D) A member of the council may be removed from office by the Board for incompetency, dereliction of duty or other good cause after being given a copy of the charges and an opportunity to be heard publicly on the charges before the Board.

(E) The Board will provide the council with sufficient staff, office space, supplies and equipment in accordance with county budget practices.

**§ 9.320 Officers; Meetings.**

The council will elect one of its members presiding officer. It will meet at such times and places as are specified by call of the presiding officer or any two members of the council. Two members of the council constitute a quorum, and the votes of any two members concurring are sufficient to make a decision.

**§ 9.330 Duties.**

The council performs the following duties:

(A) Designate one of its staff as its executive secretary and delegate to that person necessary administrative duties;

(B) Adopt rules and hold hearings as are necessary to perform the duties and responsibilities vested in it by Charter §§ 7.20 and 7.30 and this chapter;

(C) Submit periodic reports to the Board regarding the activities of the council and the application of merit principles in county personnel management;

(D) Review and comment on personnel rules or revisions, other than those referred to in subsection (B), submitted to it by the Chair;

(E) Conduct hearings on appeals from classified employees for personnel actions as provided in 9.260; and

(F) Make investigations and issue reports to the Board concerning compliance with, enforcement and effect of the provisions of this chapter, Charter § 7.40, and the rules adopted under these provisions. The council may inspect all county institutions, departments, offices and positions as necessary. An investigation may be made by the council or by any member designated by the council for that purpose.

**§ 9.340 Witnesses And Evidence; Powers Of The Council.**

(A) In the course of an investigation or hearing, the council, or any member, may administer oaths, require the attendance of witnesses and the production of books, papers, documents and accounts appertaining to the investigation.

(B) The circuit court may compel the attendance of witnesses, the giving of testimony and the production of books, papers, accounts and documents as required by a subpoena duly issued by the council or designated member under this section, and may punish the disobedience of those witnesses as a contempt.

(C) The council may take the deposition of witnesses residing within the state in the manner prescribed by state law for deposition in administrative hearing procedures. The council may require the attendance of witnesses and the production of books, papers, documents and accounts.

(D) Any person whose attendance is required before the council or any member of the council is entitled to the same fees and mileage as are allowed by law to witnesses in civil cases, except that no person is entitled to any fees or mileage for attendance who is employed by the county. The fees and mileage allowed by this section need not be prepaid but will be paid upon certification by the executive secretary.

**§ 9.350        Hearings Officer**

The council may designate a person to preside at any hearing. If a person is designated to preside at any disciplinary hearing then all county personnel rules regarding the powers and authority of the council apply to that person.

**§ 9.360        Legal Advisor**

The county attorney is the legal advisor of the council and may prosecute violations of this chapter.

**§ 9.400\*       EMPLOYEES' BENEFITS BOARD**

**§ 9.410        Established; Membership.**

(A) There is an Employees' Benefits Board (EBB) with representation from county bargaining units and county employees not covered by collective bargaining agreements.

(B) EBB membership consists of:

(1) Representation for each participating bargaining unit of county employees as provided in their respective collective bargaining agreement.

(2) One representative appointed by the Chair for all management and executive employees, and elected official's staffs.

(3) One representative for the interests of the employer appointed by the Chair.

**§ 9.420        Purpose.**

(A) Health and welfare benefits mean the health and welfare benefits described in the collective bargaining agreements.

(B) The purpose of the EBB is to:

(1) Provide a forum for education and discussion of county health and welfare issues;

(2) Study and recommend methods of providing county health and welfare benefits;

(3) Consider health and welfare benefits as part of total employee compensation;

(4) Facilitate implementation of legally mandated changes to the health and welfare benefits; and.

(5) Modify health and welfare benefits as required.

**§ 9.430 Authority.**

(A) The EBB has authority to approve changes to the health and welfare benefit plans proposed by the Chair. Proposed changes take effect only if approved by at least 80% of the EBB members eligible to vote. The Chair will implement approved changes.

(B) Changes also may be proposed by five EBB members eligible to vote. If a proposed change is approved by at least 80% of the EBB members eligible to vote, then the Chair may implement the proposed change, propose alternative changes, or reject the change. The decision of the Chair is final.

**§ 9.440 Meetings.**

The EBB will meet at least quarterly.

**§ 9.450 Voting.**

Each bargaining unit, the management and executive employee representative, and the employer representative will have one vote.

**§ 9.500\* RETIREE MEDICAL BENEFITS.**

**§ 9.510 Policy.**

Effective March 14, 1982, the Board extended health insurance benefits to eligible county employees after retirement in the interests of the public health, safety and general welfare of Multnomah County citizens and the economic welfare of county employees after retirement.

(Ord. 295, Added, 02/11/1982; Ord. 629, Amended, 11/21/1989; Ord. 631, Amended, 11/30/1989; Ord. 741, Amended, 12/3/1992; Ord. 877, Amended, 4/3/1997)

**§ 9.520 Medical Insurance.**

(A) "Retiree" means a person who retired from the county service on or after March 14, 1982, and at the time of retirement occupied a position covered by the employee compensation plan.

(B) Only employees who hold regular status in a management or executive classification immediately preceding retirement are eligible for medical insurance coverage under §§9.520 and 9.530 if otherwise qualified.

(C) Retirees may continue to participate in a county medical plan. Coverage of eligible dependents terminates when coverage of the retiree terminates, except as otherwise required by applicable state or federal law.

(D) Retirees are permitted to choose between the same plans under the same conditions as executive and management employees. Retirees are subject to any change or elimination of benefits, carrier, administrator or administrative procedures to the same extent and at the same time as executive and management employees.

(E) Retirees are responsible for promptly notifying the Chair, in writing, of any changes in the retiree's current address and of any changes in retiree or dependent eligibility for coverage.

**§ 9.530 Terms.**

The following terms apply:

(A) The county will pay one-half of the monthly medical insurance premium on behalf of a retiree and eligible dependents from the retiree's 58th birthday or date of retirement, whichever is later, until the retiree's 65th birthday, death, or eligibility for Medicare, whichever is earlier, if the retiree had:

(1) Five years of continuous county service immediately preceding retirement at or after age 58 years, or

(2) Ten years of continuous county service immediately preceding retirement prior to age 58 years, or

(3) Ten years of continuous county service immediately preceding retirement in the event of disability retirement.

(B) The county will pay one-half of the monthly medical insurance premium on behalf of a retiree and eligible dependents from the retiree's 55th birthday or date of retirement, whichever is later, until the retiree's 65th birthday, death or eligibility for Medicare, whichever is earlier, if the retiree had 30 years of continuous service with employers who are members of the Oregon Public Employee Retirement System and 20 or more years of continuous county service immediately preceding retirement.

(C) Employees employed on or before July 1, 1992, who are eligible for PERS regular retirement with 30 years of PERS service and 20 years of county service are eligible for county payment of one-half the medial premium without waiting until age 55.

(D) Actual application for Medicare is not required for a finding that a retiree is "eligible for Medicare" under subsection (A).

(E) Part-time service in a regular budgeted position will be prorated for purposes of the service requirements under subsection (A).

(F) In addition to the other requirements of this section, continued medical plan participation or benefit of county contributions is conditioned on the retiree's continuous participation in a county medical insurance plan from the time of retirement, and upon the retiree's timely payment of the applicable retiree portion (i.e., 50% or 100%, as applicable) of the monthly premium. Failure to continuously participate or make timely and sufficient payment of the retiree portion of the monthly premium terminates the retiree's rights under this section.

(G) Payments by retirees of their portion of the monthly premiums is timely if the retiree has directed their financial institution to regularly deduct the monthly premium from their account and remit the proceeds to the county, or if it is received by the county by the 20<sup>th</sup> day of the month prior to the month for which the resulting coverage will apply. The Chair must inform the retiree where to send the monthly payments, the identity and address of the county's collection agent and must thereafter give the retiree at least 45 days notice of any change.

(H) If county medical insurance premium payments on behalf of retirees or their dependents are made subject to state or federal taxation, any additional costs to the county must be directly offset against such payments required under this section.

#### **§ 9.540 Account.**

(A) **Establishment.** There is a General Employee Retiree Insurance Account in the county's general ledger (Account).

(B) **Budget Charges.**

(1) The budgets of county departments are charged amounts determined by actuarial study to reasonably approximate the level percentage of straight time pay of covered employees necessary, in combination with the contributions of all departments and interest earned on those amounts, to fund authorized retiree medical insurance premium payments on behalf of eligible employees.

(2) Charges to department budgets under subsection (1) are based on the straight-time wages for employees covered by a collective bargaining agreement or code section that authorizes county-paid medical insurance premiums on their behalf following retirement.

(C) **Sources of Funds.** County contributions, retiree contributions and the return on investment thereof will be placed in the Account. No contribution by an employee may be placed in the Account.

**§ 9.550 Actuarial Studies.**

The Chair will conduct actuarial studies to determine the adequacy of the contribution rate to fund authorized retiree medical insurance premium payments on behalf of eligible retirees. The Chair will develop and report to the Board recommendations concerning adjustments to the contribution rate, based on the results of the actuarial studies.

**§ 9.560 Expenditures for Managing the Account.**

Expenses of managing the Account including charges for retiree medical insurance premiums and costs of actuarial studies are payable from the Account.

**§ 9.570 Loss of Tax Preferred Status.**

If the state or federal governments substantially alter the tax preferred status of employee premiums paid on behalf of retirees, the Chair must promptly conduct a study of tax preferred or tax sheltered alternatives for providing retiree insurance or substitute benefits, and report to the Board with recommendations.

**§ 9.600\* CHARITABLE SOLICITATION**

**§ 9.605 Findings And Purpose.**

(A) The county has no formal policy regarding employee contributions to funds or federations through payroll deductions.

(B) The Board supports charitable giving by county employees and believes providing employees meaningful choices among charitable groups will increase overall giving and employee satisfaction in the program.

(C) The Board finds that this subchapter is necessary to assure that funds are solicited from county employees by qualified funds or federations, to minimize workplace disruption and the administrative costs of charitable solicitation in the workplace, and to expand the range of choices for county employees who wish to contribute to charities.

**§ 9.610 Definitions.**

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

**CHARITABLE ORGANIZATION.** Any entity described in Internal Revenue Code section 501(c)(3) (26 USC § 501(c)(3)) and exempt from federal income tax under Internal Revenue Code section 501(a) (26 USC § 501(a)).

**DIRECT DESIGNATION.** The fund or federation permits the donor to designate a specific program, agency or other entity within the fund or federation to receive the donation, rather than requiring that the donation be distributed among programs, agencies or other entities according to a schedule or formula determined by the fund or federation.

**DONOR OPTION.** The fund or federation permits the donor to designate a donation to a specific charitable organization not a fund or federation or any part of any fund or federation in the campaign.

**FUND or FEDERATION.** An entity serving as the agent of a group of member charitable organizations to which it disburses funds, or an entity that grants funds to charitable organizations.

**§ 9.615 Compliance Required.**

Charitable solicitations of county employees while on the job during working hours may be conducted only in compliance with this subchapter. Only funds or federations certified under this subchapter are allowed to solicit contributions by county employees during the annual campaign.

**§ 9.620 Campaign Management Council Established.**

(A) A Campaign Management Council (Council) is established. Members of the council must be permanent county employees. The Council consists of the following voting members:

- (1) One representative of the Board;
- (2) One representative of each county department;
- (3) One representative from the Sheriff's office;
- (4) One representative from finance;
- (5) One representative from payroll; and

(6) One union representative.

(B) The council will select a chair.

(C) In addition to the voting members, each fund or federation certified under this subchapter may have a nonvoting representative on the Council.

**§ 9.625 Campaign Management Council Responsibilities.**

The council has the following responsibilities:

(A) Approve the format and distribution of campaign literature and communications. Each participating fund or federation must supply its campaign material to the council as required by council rules;

(B) Regulate the annual campaign so as to maximize employee contributions in a voluntary atmosphere;

(C) Establish written guidelines for the time, place, and manner of the campaign, consistent with the purposes of this subchapter. The council may waive or adjust its guidelines in particular cases where strict application of the guidelines would be unjust, so long as the purposes of this subchapter are not violated.

**§ 9.630 Certification Criteria.**

(A) The Council will certify funds or federations for the purpose of conducting a fund drive among county employees. The council will certify only those funds or federations, which meet all the following criteria:

(1) The fund or federation is qualified as exempt under section 501(c)(3) of the Internal Revenue Code;

(2) The fund or federation disburses funds to at least ten charitable organizations;

(3) The fund or federation either provides services to local residents or works to improve the quality of life using an international, national, regional or local focus. A fund or federation with an international, national, or regional focus must assign a local representative to be available as needed to meet the requirements of this subchapter and the Council's guidelines;

(4) The fund or federation has a written policy of nondiscrimination regarding race, color, religion, national origin, handicap, age, sex, and sexual orientation. This policy must be applicable to the fund or federation's staff and board of directors;

(5) The fund or federation has made the filings required by the Charitable Trust and Corporation Act and the Oregon Charitable Solicitation Act and has not been found to

be guilty of a violation of either act by a court of competent jurisdiction during the 12 months preceding its application for certification;

(6) The fund or federation has an unpaid board of directors;

(7) The fund or federation has been incorporated no less than one year prior to the date of application for certification as a fund or federation;

(8) The fund or federation demonstrates that it has filed IRS Form 990, its most recent audit (if revenue exceeds \$100,000) and CT12 return as required by state law and provides copies upon request by the Council;

(9) The fund or federation provides a direct designation to county employees. This does not limit the ability of a fund or federation to offer a donor option program;

(10) If certified by the county in a prior year, the fund or federation has paid the required share of costs for published materials as required under § 9.308.

(B) Not more than six organizations meeting these criteria and selected by the Council may be placed on the list certified by the Board as eligible to receive contributions from county employees by payroll deduction. The selection committee consists of the voting members of the council. It must review proposals every three years and select organizations that provide county employees with the best choices in the areas of health, human welfare services, conservation, community development, cultural enrichment, and international support.

(C) Certification of a fund or federation by the Council is valid for three years. During certification, the fund or federation must respond to reasonable requests by the Council for assurance that all requirements for certification have been and are being met. Failure to respond is grounds for decertification.

#### **§ 9.635 Decertification.**

(A) The Council may decertify any certified fund or federation that:

(1) Fails to substantially comply with the campaign guidelines established by the Council; or

(2) Includes intentionally false or misleading information on a certification application.

(B) A notice of decertification must be in writing and must advise the recipient of the right of appeal under this subchapter.

(C) Any fund or federation that is decertified may not participate in the charitable solicitation program for the two campaign years following decertification. However, employee donations will continue to be distributed to the decertified fund or federation until the end of the campaign year in which the final order of decertification is issued.

**§ 9.640 Ineligibility.**

Any certified fund or federation that does not receive donations from at least 25 county employees during the campaign in any year following its first year of certification, is ineligible for the annual fundraising campaign for the next year. Following the year of ineligibility, the fund or federation may reapply for certification.

**§ 9.645 Application And Appeal Procedure.**

(A) An application for certification must be submitted as required by Council guidelines. The application must be on forms provided by the council. The council shall advise each applicant in writing of whether the application is accepted or denied.

(B) In the event an application is denied or a fund or federation is decertified, the council will state the reasons for the action in writing and advise the applicant of the right of appeal to the Board.

(C) An appeal must be filed with the clerk of the Board on or before the tenth day after notice of the action is mailed by the Council. If a timely appeal is filed, the matter will be promptly scheduled on a Board agenda. Notice of the hearing will be mailed to the appealing party no fewer than five days before the hearing. At the hearing a representative of the Council will advise the Board of the reasons for the action, and the appellant will be heard in response. The Board will make its decision at the conclusion of the hearing or at a continuation of the hearing. The Board order will be in writing and will state the reasons for the action.

**§ 9.650 Costs Paid By Certified Organizations.**

The Council will require payment for the total costs for the design and printing of any combined brochure, payroll deduction form, and related documents by certified funds or federations in proportion to the amount of funds raised from the campaign.

**§ 9.655 Payroll Deduction System.**

(A) The county's payroll deduction system may be used to distribute charitable contributions only to funds or federations certified under this subchapter. Undesignated contributions will not be accepted.

(B) If the county payroll system must be expanded or modified to accommodate the funds or federations certified, the Board may impose a fee on all certified funds or federations to pay the costs of the expansion or modification. Any such fee requirement may be adopted by Board resolution.

FIRST READING:

April 25, 2002

SECOND READING AND ADOPTION:

May 2, 2002



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By Thomas Sponsler  
Thomas Sponsler, County Attorney