

**NORTH SLOPE BOROUGH
ORDINANCE SERIAL NO. 2024-08**

**AN ORDINANCE AMENDING CHAPTER 2.20 OF
THE NORTH SLOPE BOROUGH MUNICIPAL CODE
TO UPDATE AND SIMPLIFY HUMAN RESOURCES
PROCEDURES**

WHEREAS, the provisions of the North Slope Borough Municipal Code (NSBMC) Chapter 2.20 provide the Borough’s system of human resources management; and

WHEREAS, the Human Resources Department has found inefficient and outdated sections of the code that need amending; and

WHEREAS, NSBMC §2.20.150(A)(7) requires that an employee released from probation following a promotion retains permanent status in their previous position, which requires either holding open the previous position for up to nine months or transferring the employee to another open position; and

WHEREAS, this section should be amended to delete the requirement that promoted employees retain permanent status in their previous position;

WHEREAS, NSBMC § 2.20.140(A) requires Assembly review prior to amendments to the North Slope Borough Personnel Rules and Regulations (PRR) being effective, which causes unnecessary delays to the amendment process, and

WHEREAS, this section should be amended so that PRR changes are effective on the date approved by the Mayor, with Assembly review at the next Assembly meeting; and

WHEREAS, NSBMC § 2.20.150(A)(26) provides a hiring preference for Borough residents, but local hire preferences have been found unconstitutional by both the U.S. Supreme Court and the Alaska Supreme Court; and

WHEREAS, NSBMC § 2.20.150(A)(27) provides a preference for hiring Native Americans; however, in 2003, the United States Court of Appeals for the Ninth Circuit decided that the Borough’s ordinance granting a hiring preference to Native Americans was invalid under the Equal Protection Clause of Alaska's Constitution; and

WHEREAS, because the local and Native American preferences are illegal and no longer followed, both subsections should be removed from the Code; and

WHEREAS, after review and discussion, the North Slope Borough Assembly Code Book Committee adopted Resolution 2024-08 on April 23, 2024, recommending the Assembly approve the amendments to Chapter 2.20, a copy of which is attached as Exhibit A.

NOW, THEREFORE, BE IT ENACTED:

SECTION 1. Classification. This ordinance is of a general and permanent nature and shall become part of the Borough Code.

SECTION 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons and circumstances shall not be affected thereby.

SECTION 3. Effectiveness. This ordinance shall become effective upon adoption.

SECTION 4. An Amendment of Sections in Chapter 2.20. NSBMC Chapter 2.20 is hereby amended with new language indicated by underling and bolding, and deleted language by brackets and strike through [brackets] as annexed in Exhibit A hereto.

INTRODUCED: _____

ADOPTED: _____

Crawford A. Patkotak, President

Date: _____

ATTEST:

Sheila Burke, Borough Clerk

Date: _____

Josiah A. Patkotak., Mayor

Date: _____

Exhibit A

§ 2.20.140 - AMENDMENT OF PERSONNEL RULES.

(A) The Human Resources Director shall prepare and submit to the Mayor any proposed amendments to the personnel rules for all positions and employees subject to this chapter for his review, amendment, approval or rejection. [~~Any amendment or approval is subject to Assembly review.~~] **Amendments to the personnel rules are effective on the date the Mayor approves the change. The Assembly will be notified of the change at its next Assembly meeting.**

(B) The rules may provide for exemptions and modifications which are necessary to assure the continuity of federal or state grants to agencies supported in whole or in part by federal or state contributions.

§ 2.20.150 - SCOPE OF RULES.

(A) The personnel rules shall provide for:

(1) The preparation, maintenance and revision by the Mayor of a position classification plan for all positions in the classified and partially exempt services; in the position classification plan, all positions shall be grouped together into classes on the basis of duties and responsibilities; the position classification plan shall include for each class of position an appropriate title, a description of the duties and responsibilities, training and experience qualifications and other necessary position specifications;

(2) The preparation, maintenance, revision and administration by the Mayor of a pay plan for all positions in the classified and partially exempt services; the pay plan shall be based upon the position classification plan, shall provide for fair and reasonable compensation for services rendered and shall be based on the principle of like pay for like work; the pay plan may provide for uniform starting pay, increments and area and time differentials; the pay plan prepared under this section may be amended, approved or disapproved by the Mayor, subject to Assembly review, in regular or special sessions; after the pay plan is put into effect, no salary or wage payment may be made to a Borough employee covered by the pay plan unless the payment is in accordance with this chapter and the rules adopted under this chapter;

(3) The use of sound employee selection methods, including, if applicable, open competitive examinations to test the fitness of applicants for positions in the Borough service;

(4) Promotions from within the Borough service when there are qualified candidates in the Borough service; vacancies shall be filled by promotion whenever practicable and in the best interest of the Borough service, and promotion shall be by competitive examination whenever practicable; in

1 considering promotions, applicants' qualifications, performance record, seniority
2 and conduct shall be evaluated;

3 (5) The establishment and maintenance of eligible lists for appointment
4 and promotion; the names of eligible candidates shall be placed on eligible lists
5 in order of their relative performance in the examinations;

6 (6) The procedure for certifying eligible candidates;

7 (7) A period of probation not to exceed one year before an appointment to
8 a position becomes permanent~~[-except that a permanent employee receiving a~~
9 ~~promotional appointment retains permanent status in the service and the job class~~
10 ~~from which appointed for the duration of the probationary period, and may be~~
11 ~~demoted to his former class without right of appeal, § 2.20.180 of this chapter~~
12 ~~notwithstanding, but if dismissed from the service, he has appeal rights under §~~
13 ~~2.20.180 of this chapter];~~

14 (8) Emergency appointments to position in the Borough service;

15 (9) Nonpermanent appointments to positions in the Borough service;

16 (10) Provisional appointment without competitive examination when
17 appropriate eligible lists are not available;

18 (11) Transfers from one department to another and from another merit
19 system jurisdiction to Borough services;

20 (12) Transfers from one area of the Borough to another;

21 (13) The payment of transportation costs when an employee transfers from
22 one area to another at the request of the employer;

23 (14) The reinstatement of a person who resigns in good standing;

24 (15) Layoffs for reason of lack of funds or work, abolition of positions, or
25 material changes in duties or organization; both performance and seniority
26 records shall be considered in the development of layoff orders;

27 (16) The development, maintenance and utilization of employee
28 performance records;

29 (17) The imposition of disciplinary suspension without pay for not longer
30 than 30 days in any 12-month period;

31 (18) The procedures for review of disputed personnel actions and for
32 resolving employee and interagency grievances;

33 (19) Hours of work for all employees in the Borough service;

34 (20) Methods and procedures covering overtime work and pay;

1 (21) The delegation, where feasible, of certain personnel responsibilities
2 and duties to the principal departments of the Borough;

3 (22) Other rules and administrative regulations, not inconsistent with this
4 chapter which are necessary for its enforcement;

5 (23) The granting of employment preference right to a veteran at each
6 time he applies for employment, not within the area of promotion, when he
7 possesses the necessary qualifications in the job classification for which he
8 applies under this chapter, the term VETERAN means a person with 90 days or
9 more active service in the armed forces of the United States who has been
10 honorably discharged after having served any period between April 6, 1917 and
11 December 1, 1919, between September 16, 1940 and December 31, 1947 or
12 between June 27, 1950 and November 7, 1975; the term DISABLED VETERAN
13 means a veteran who is rated by the United States Veterans' Administration as
14 having at least 10% service-connected disability; in the examination to determine
15 the qualification of applicants for entrance into the classified service under merit
16 system examination, five additional points shall be added to the passing grade of
17 a veteran and ten additional points shall be added to the passing grade of a
18 disabled veteran; if a position in the classified service is eliminated, employees
19 shall be released in accordance with rules which give due effect to all factors; if
20 all job qualifications are equal, the veteran shall be given preference over the
21 nonveteran and the veteran shall be kept on the job;

22 (24) Employment of persons in positions on a part-time basis, including
23 the employment of two persons to fill one full-time position;

24 (25) The granting of employment preference to severely handicapped
25 persons; this includes the right to provisional appointment without competitive
26 examination for periods up to four months and the granting of eligibility to a
27 severely handicapped person provisionally appointed under the rules who
28 demonstrates his ability to perform the job for permanent appointment without
29 competitive examination; provisional employment under this division may not
30 exceed four months during a 12-month period.[];

31 ~~(26) The granting of employment preference to Borough residents;~~

32 ~~(27) The granting of employment preference to Native Americans. The~~
33 ~~preference shall apply to hirings, promotions, transfers, and reinstatements. A~~
34 ~~Native American applicant who meets the minimum qualifications for a position~~
35 ~~shall be selected, and where there is more than one Native American applicant~~
36 ~~who meets the minimum qualifications for a position, the best qualified among~~
37 ~~these shall be selected. In instances where a Native American applicant meets~~
38 ~~most of the minimum qualifications for the position and can, during the~~
39 ~~probationary period, meet the minimum qualifications, that person will be given~~
40 ~~employment preference. If, at the end of the probationary period, all the minimum~~
41 ~~qualifications have not been met, the individual may be granted a three-month~~

1 ~~extension of the probationary period, on a one time basis, by the supervisor. If the~~
2 ~~person given employment preference is not able to meet the minimum~~
3 ~~qualifications at the end of the probationary period, he or she will be dismissed~~
4 ~~from employment and the position will be re-posted. A Native American is a~~
5 ~~person belonging to an Indian tribe as defined in USC Section 3703(10)]~~