DIVISION 2. - EMPLOYEES' MERIT SYSTEM

Sec. 42-51. - Established.

There is hereby established a merit system for employees of the county sheriff's department.

(Ord. No. O-90-9-111, § 1, 9-10-90)

Sec. 42-52. - Positions and employees included in system.

The classified service to which this division shall apply shall include all positions and employees in the sheriff's department, except for the sheriff, his chief deputy, his personal secretary, seven other positions at his discretion, those employees whose income is derived primarily from fees for service of civil papers, and those employees serving primarily as court officers and bailiffs.


Sec. 42-53. - Merit system council.

(a) Created. There is hereby created a merit system council, composed of three members elected by the commission to administer the terms of this division.

(b) Alternate member. The county commission shall have the authority to appoint an alternate member to the merit system council. The commission shall appoint such member at the next regularly scheduled meeting of the commission upon taking nominations for such alternate position and voting thereon. Such alternate shall serve for a period of one year. The alternate may be designated by the chairman of the council to sit in place of any regular member who, by reason of absence, will not participate in the consideration of any matter before the council.

(c) Terms. The terms of the members of the merit system council shall be three years; provided, however, that no member of the council shall serve more than two consecutive terms.

(d) Qualifications. All members of the merit system council must be over 21 years of age; of good moral character; a citizen of the United States and the state; and must reside in the county. No person shall be eligible to serve as a member of the council if he has previously been employed by the department within the five calendar years preceding his appointment by the commission, or if any member of such person's immediate family is or becomes employed by the county sheriff's department at any time during such person's term of service as a member of the council. For purposes of this section, "immediate family" shall include spouse, parent, siblings, or children.

(e) Compensation. The members of the merit system council shall receive such salary, if any, as
determined by the commission in its sound discretion.

(f) Officers. The merit system council shall elect one of its members as chairman. The commission shall provide for the designation of a personnel officer who shall be the keeper of the personnel records and shall serve as secretary of the merit system council. If the personnel officer is to be drawn from among the employees of the sheriff, the designation of the personnel officer shall be made by the sheriff.

(g) Powers. The merit system council as a body shall have the power to:

1. Adopt and amend rules and regulations for the administration of this division.
2. Make investigations concerning the enforcement and effect of this division and to require observance of the rules and regulations made thereunder.
3. Hear and determine appeals and complaints respecting the administration of this division.
4. Establish and maintain a roster of all employees of the classified service and the office of the sheriff showing their positions, rank, compensation and places of residence.
5. Ascertain and record the duties and responsibilities pertaining to all positions in the classified service, and to classify such positions in the manner provided in this division.
6. Except as otherwise provided in this division, formulate and hold competitive tests to determine the qualifications of persons who seek employment in any position, and as a result of such tests, establish employment lists of eligible persons for the various positions.
7. Establish records of the performance and a system of service ratings to be used to determine promotions, the order of layoffs and reduction of force; to determine the order of reemployment; to assist in the determination of dismissal for cause, and for other purposes.
8. Keep any other such records as may be necessary for the proper administration of this division.
9. Provide for part-time and temporary positions and appointments and establish rules defining and governing use of these positions, except that no temporary appointment shall be for more than three months except by special action of the council.
10. Establish rules and regulations governing mandatory retirement from the classified service and providing for further provisional employment of such persons at the discretion of the sheriff on a year-to-year basis where such employees prove to be physically and otherwise able to perform required services and where a need for such services is demonstrated.
11. Set the date when the portions of this division pertaining to the establishment of the classified service shall take effect, except that the date set shall not be prior to January 5, 1971.
(12) Adopt and amend rules and regulations providing for a means of hearing grievances by members of the classified service.


Sec. 42-54. - Effect of division on current employees.

All persons employed by the sheriff in positions covered by this division at the time Ordinance No. O-90-9-111 became operative shall be retained without preliminary or qualifying examinations but shall serve a probationary period of not more than 12 months as specified for the position to which they are appointed. Such service shall take place under the rules governing probationary service.

(Ord. No. O-90-9-111, § 9, 9-10-90)

Sec. 42-55. - Classification plan.

(a) The merit system council shall, as soon as practical, adopt a classification plan and make rules for its administration. The position classification plan may, if desired, create different classes of positions within each position, whether or not such positions are covered under the merit system.

(b) The position classification plan shall show the duties, authorities, responsibilities and character of work required for each position and each class thereof. In consultation with the sheriff, the merit system council shall determine the requirements of each position and class thereof as to education, experience, and capabilities, knowledge, and skill. The council shall provide, as far as practical, for the maximum flexibility in lateral transfer of personnel, particularly in those positions and classes of positions relating to law enforcement.

(Ord. No. O-90-9-111, § 10, 9-10-90)

Sec. 42-56. - Council to create, combine, alter or abolish positions as necessary; exception.

The merit system council shall create new positions, or combine, alter, or abolish existing positions as the sheriff deems necessary for the effective operation of the sheriff's office, provided, however, that no position in the classified service be abolished where there is evidence to show that the abolishing of the office is designed to subvert the merit principle contained in this division that an individual covered by the merit system may not be dismissed from service except for demonstrated cause.

(Ord. No. O-90-9-111, § 11, 9-10-90)

Sec. 42-57. - Leaves of absence rules.

(a) The merit system council shall formulate reasonable rules governing the granting of leaves of
absence to members of the classified service in good standing. Leaves of absence shall be
granted only where the sheriff has recommended the leave of absence and where it is
demonstrated that the requirements of adequate law enforcement and operational efficiency
of the office of the sheriff shall not be impaired by the granting of such a leave.

(b) All persons coming under the classified service who shall, after September 10, 1990, be
inducted in the Armed Forces of the United States of America, or who shall, after September
10, 1990, enter such service voluntarily, by enlistment or otherwise, in a time of war or other
national emergency shall, upon application of the sheriff, receive a military leave of absence
for the duration of the period of service required. Such employee shall retain all rights for
seniority and shall be entitled to reemployment in the same capacity and position held at the
time of entering such military service; provided, however, that application for reinstatement
in such position be made by or on behalf of such employee within three months after
termination of active service in the Armed Forces.

(Ord. No. O-90-9-111, § 12, 9-10-90)

Sec. 42-58. - Competitive tests; lists of eligibles.

(a) The sheriff shall keep the merit system council informed by periodic reports of the
employment needs of the office and the council shall, as often as required by the necessity of
the office of the sheriff, hold tests for the purpose of establishing lists of eligibles for the
various positions in the classified service. Such tests shall be made public, competitive, and
open to all persons who may be lawfully appointed under the rules promulgated by the merit
system council and existing prior to the announcement of the examination. Such rules may
set limitations as to residence, age, health, habits, moral character, and other necessary
prerequisites for the performance of the duties of the position for which the examination is
designated. Prior to placement on the list of eligibles, background investigations must be
completed and the candidate found in conformity with standards.

(b) Promotion tests shall be public, competitive and free to all persons examined and appointed
under the provisions of this division and who shall have served as an employee of the
sheriff’s office for a minimum of one year and successfully completed a probationary period.
Promotional examinations shall include an oral examination by an examining board, which
shall include the sheriff or his designated representative.

(c) Tests required by this section may include examination for psychological fitness, physical
fitness, and manual skill. No questions in any test shall relate to religious or political opinions
or affiliations. The eligible persons shall take rank upon a list which shall be compiled for
each position in the order of their relative excellence as determined by the tests without
reference to the priority of the time the tests are given. No lists of eligible persons shall be
valid after one year, except, however, that the merit system council may extend an eligible
period for not more than one year. Notice of the time, place and general scope of each test and the duties, pay and experience required for all positions for which the test is to be held shall be given by the council to each applicant at least one week preceding the test.

(d) The notice required by subsection (c) of this section must be in writing and addressed to the last known address supplied by the applicant.

(Ord. No. O-90-9-111, § 13, 9-10-90)

Sec. 42-59. - Filling of vacancies.

(a) Whenever a vacancy occurs in any position in the classified section of the office of sheriff, the sheriff shall make requisitions to the merit system council for names and addresses of all persons eligible for appointment thereto. The council shall certify the names of all persons on the eligible list for the position wherein the vacancy exists within 30 days of the requisition to the council. The sheriff thereupon shall investigate each of the five highest persons on the list of eligibles and appoint from that list. If the sheriff finds the list of such five persons unacceptable, he may state his findings in writing to the council which at its discretion may authorize selection from the second five eligible persons on the list. The sheriff thereupon shall appoint the person selected to the position where the vacancy exists and shall notify the council of his action. If the merit system council shall fail to provide a list of eligibles, then the sheriff may make appointments to vacancies after having notified the council of his action or his intention to do so.

(b) No appointment for any position in the classified service shall be deemed complete until after the expiration of 12 months probation of service, during which time the sheriff may determine the effectiveness of the employee, and if in his judgment the employee does not meet the standards, he may terminate the employment of any person certified and appointed if he deems it in the best interest of the service.

(c) No promotion to a supervisory position shall be deemed complete for a period of six months after appointment, during which time the employee may be returned to his previous position without prejudice.

(Ord. No. O-90-9-111, § 14, 9-10-90)

Sec. 42-60. - Transfers.

All employees in the classified service may be transferred from one position to another within and between classes of positions only under rules established by the merit system council. These rules may designate those classes of positions between which transfer may take place. Nothing in this section shall prohibit any employee holding a position in one class from proving qualifications for holding a position and being eligible for appointment in another class through regular competitive examination. Transfers may be instituted only by the sheriff and shall be permitted only with the consent of the sheriff.
Sec. 42-61. - Investigations.

(a) The procedure of the merit system council with respect to any investigation by the council as authorized by this division shall be in accordance with the rules and regulations established by the council and shall provide for reasonable notice to all persons affected by the authorization of any order the merit system council may issue after such investigation is complete. Such affected person shall have the opportunity to be heard either in person and/or by counsel, and to introduce testimony in his behalf in a public hearing to be held for that purpose.

(b) The merit system council, when conducting any investigations or hearings authorized by this division, shall have the power to administer oaths, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony. In case of the disobedience of any person to comply with the order of the council or of a subpoena issued by the council or any of its members, or upon the refusal of a witness to testify on any matter in which he might be lawfully interrogated, the judge in any court of record within the county on application of the council shall compel obedience by proceedings as for contempt. The sheriff or his legal deputy shall serve such subpoenas as issued by the council.

(Ord. No. O-90-9-111, § 16, 9-10-90)

Sec. 42-62. - Sheriff to make immediate report of matters affecting status of member of service; suspensions.

(a) The sheriff shall give an immediate report in writing to the merit system council on all appointments, reinstatements, vacancies, absences or other matters affecting the status of any member of the classified service or the performance of the duties of members of the classified service. The report shall be in the manner and form prescribed by the merit system council.

(b) The sheriff may suspend any employee for not more than three days for cause, and there shall be no right of appeal for any suspension thereof. A member of the classified service shall be authorized to file a grievance under the procedures established by the merit system council pertaining to suspension of more than three days. The sheriff shall not have the authority to suspend any employee for more than one suspension of ten days within any given six-month period of time without the right of appeal. If the sheriff shall suspend any employee for a period longer than ten days, the individual suspended shall be notified in writing of the charges placed against him for his suspension. He shall thereafter have ten days to request a hearing before the merit system council, and upon his request the council shall set a hearing not more than 30 days from the receipt of such request for a hearing. It is
the intent of this division that the sheriff shall have maximum flexibility in the disciplining of employees for ordinary cause. However, if the council finds that the sheriff has not complied with procedures established by the council, that suspension has occurred for political reasons, or that the sheriff has been arbitrary in the interpretation of cause, the council may order reinstatement and back pay of the employee.

(Ord. No. O-90-9-111, § 17, 9-10-90)

Sec. 42-63. - Dismissals.

The sheriff shall have the authority to dismiss any employee for ordinary cause with a right of appeal assured the employee. The dismissed employee shall be notified in writing of the causes for dismissal. The employee shall thereafter have ten days to request a hearing before the merit system council, and upon his request the council shall set a hearing not more than 30 days from the date of the receipt of such request. The rules of procedure for the conduct of any investigation by the merit system council shall apply to such hearing. If the council finds that the sheriff has not complied with the procedures established by the council, that dismissal has occurred for political reasons or that the sheriff has been arbitrary in the interpretation of cause, the council may order the employee to be reinstated with back pay. If dismissal results from a reduction in force, such reduction shall be made on the basis of seniority and merit, as provided for in the rules established by the council.

(Ord. No. O-90-9-111, § 18, 9-10-90)

Sec. 42-64. - Political activities restricted.

No person holding a position in the classified service shall take an active part in any political campaign while on duty, nor shall any employee of the sheriff's department, under any circumstance, solicit money for political campaigns or in any way use his position as a deputy sheriff to reflect his personal political feelings as those of the sheriff's department or to use his position as deputy sheriff to exert any pressure on anyone or any group of people to sway that person's or group of persons' political views. No employee while on duty, nor any officer while in uniform, shall display any political advertising or paraphernalia on his person or on his automobile. No employee of the sheriff's office shall make any public endorsement of any candidate in any campaign for elected office, nor be responsible for the conduct of such campaign. However, nothing in this division shall be construed to prohibit or prevent any such employee from becoming or continuing to be a member of a political club or organization and enjoying all the rights and privileges of such membership or from attending any political meetings while not on duty or in the course of his official business, nor shall he be denied from enjoying any freedom in the casting of his vote. Any person violating the provisions of this section shall be dismissed from the service of the office of the sheriff.

(Ord. No. O-90-9-111, § 19, 9-10-90)
Sec. 42-65. - Sheriff not to require political activity as condition of employment or promotion.

The sheriff may not require any employee in the classified service to participate in any political activity as a condition of employment, continuation of employment, or promotion. If, upon proper investigation, notice and hearing of the merit system council, it is determined that such actions have taken place, where applicable, the employee shall be reinstated with back pay, and the council shall issue an order to the sheriff to cease and desist from such activity. If the sheriff fails to comply or persists in the activity, the council may apply to the nearest court of record having jurisdiction for a citation of contempt.

(Ord. No. O-90-9-111, § 20, 9-10-90)

Sec. 42-66. - Division not to create property rights or vested interests.

This division shall not be held nor construed to create any property rights or any vested interests in any position in the classified service, and the right is hereby reserved to repeal, alter, or amend this division, or any provisions thereof, at any time.

(Ord. No. O-90-9-111, § 21, 9-10-90)

Secs. 42-67—42-85. - Reserved.