

CITY OF FRANKLIN, OHIO
RESOLUTION 2020-19

RESOLUTION REGARDING EMERGENCY HIRES FOR DIVISIONS OF FIRE AND POLICE, CITY OF FRANKLIN, OHIO AND ALTERNATIVELY ADOPTING CIVIL SERVICE RESOLUTION 2020-01 SUSPENDING RULES FOR EMERGENCY HIRES

WHEREAS, the City of Franklin Civil Service Commission conducted an emergency virtual meeting in compliance with Ohio's COVID-19 Open Meetings Act on April 2, 2020; and

WHEREAS, the City of Franklin Civil Service Commission at that emergency meeting considered and passed by a unanimous vote of all members present Resolution 2020-01, REGARDING EMERGENCY HIRES FOR DIVISIONS OF FIRE AND POLICE, CITY OF FRANKLIN, OHIO, attached hereto as Exhibit A; and

WHEREAS, the City of Franklin Civil Service Commission recommends to this City Council that its Resolution 2020-01 be adopted without modification to protect the health, safety and welfare in this national, state and city declared state of emergency; and

WHEREAS, this City Council acknowledges the following:

1. The Civil Service Commission of City of Franklin, Ohio, Rules and Regulations (CSCRR), last amended on February 2, 2009 in Resolution 2009-07, in accordance with the authority conferred under Articles XV and XVIII and other provisions of the Constitution of the State and Ohio, the Charter of the City of Franklin, Ohio and Chapter 124 and other provisions of the Ohio Revised Code, do not contemplate the need to make emergency hires under the National, State and City declared State of Emergency in response to the battle against COVID-19.
2. CSCRR governs appointments of officers and employees in the Civil Service (CSCRR 1.01).
3. CSCRR are not to be construed to limit the City's Home Rule Authority or ability to maintain the operations and objectives of the Commission in serving the public (CSCRR 1.02); and
4. The National, State and City declared state of emergency as it relates to COVID-19; and
5. The need to immediately make emergency hires to adequately staff the City of Franklin Fire Division, which provides emergency medical services, and the City of Franklin Police Division; and
6. The Fire and Police Divisions are now placed under extreme, unforeseen, and never contemplated demands as emergency responders with regard to responding to COVID-19 in carrying out their missions to protect and serve the health, safety and welfare of the citizens of Franklin and surrounding communities within Warren County through mutual aid agreements; and
7. The Rules and Regulations as contained in the CSCRR, if employed (some of which may not be possible given the state of emergency and demands on the medical profession), may prohibit the City of Franklin from immediately making emergency hires in these Divisions; and
8. The Fire Division and Police Divisions have triggered the emergency clauses under Union Contracts.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of the members present concurring, that:

Section 1. The City of Franklin Civil Service Commission Resolution 2020-01, REGARDING EMERGENCY HIRES FOR DIVISIONS OF FIRE AND POLICE, CITY OF FRANKLIN, OHIO, attached hereto as Exhibit A is adopted in full without modification.

Section 2. City Council declares emergency hires employed to respond to COVID-19 are not contemplated by the CSCRR and, therefore, are not governed by the appointment Rules and Regulations contained in the CSCRR.

Section 3. The City of Franklin must make additional emergency hires which will be temporary and intermittent hires in order to protect the health, safety and welfare of the City of Franklin Fire Division and Police Division Personnel to provide for adequate staffing, the best it can, under the extreme challenges presented by COVID-19.

Section 4. In order to make these emergency hires to adapt to the extreme and immediate challenges presented by COVID-19, it is acknowledged the pre-employment practices ordinarily used by the Fire and Police Division must be immediately suspended because the emergency affords neither the time nor the access to required resources to utilize them.

Section 5. The City will use good faith efforts to ensure emergency hires are lawfully qualified to serve in this state of emergency.

Section 6. Because only good faith efforts to select and hire Fire and Police Division emergency hires can be used at this time, Article VIII, Civil Service System, including but not limited Section 8.07 Probation Period, in the City of Franklin Charter never contemplated emergency hires and does not, therefore, apply to emergency hires.

Section 7. To the extent any reviewing Court deems Article VIII, Civil Service System to apply to emergency hires, this Article is suspended by official action by the Civil Service Commission.

Section 8. Chapter Six of the CSCRR do not apply to emergency hires. To the extent any Court would find such to apply, this requirement is suspended by official action by the Civil Service Commission and the City Council.

Section 9. Emergency hires will be asked by the City Manager, through the Fire Chief and Police Chief respectively, to attest to the fact that they meet all state statutory requirements to lawfully perform the job for which they are hired.

Section 9. The City Council declares emergency hires to respond to COVID-19 are not contemplated by the CSCRR and, therefore, the position is one of at-will employment of a temporary and intermittent nature, even if a funded position is temporarily and intermittently filled, and the position is afforded no due process protections under any local, state or federal law.

Section 10. To the extent any reviewing Court deems emergency appointments are governed by the CSCRR, the City Council hereby suspends all Rules and Regulations under the CSCRR governing the appointments, removals, transfers, lay offs, suspensions, reinstatements, promotions or reductions as an officer or employee for emergency hires for the City of Franklin Fire Division and the City of Franklin Police Division;

Section 11. To the extent any reviewing Court deems emergency appointments are governed by the CSCRR and require action to be taken by Charter Amendment, the City Council declares such is an abrogation of Home Rule authority as it is impossible to take such action in a national, state and city declared state of emergency;

Section 12. Immediately hiring lawfully qualified people willing to serve the emergency need is the directive of this legislative action taken to exercise police powers to protect human life.

Section 13. To the extent required, if any, the Law Director is ordered to prepare all notices required under the CSCRR and to confirm notices are posted immediately. As the Municipal Building and Franklin City School District are closed under the declared state of emergency, postings are ordered to be delivered to the Franklin City Manager and the Superintendent of Schools to be placed on each respective website so that all interested parties are provided with notice, which is the spirit and intent of the notices.

Section 14. The Savings Clause, CSCRR 1.06, governs this Resolution and it shall otherwise be read as severable should any reviewing Court invalidate the legislative action and police power action taken herein. All remaining valid action contained herein shall be fully enforced under the law.

Section 15. The City of Franklin is an equal opportunity employer and does not discriminate or retaliate based upon race; color; religion; sex; age; national origin; sex (wages); disability; disabled, recently separated, other protected, and armed forces service medal veterans; genetics.

Section 16. This Resolution shall be published in accordance with CSCRR 1.04 and state law.

Section 17. It is found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 18. This Resolution shall become effective immediately upon its passage and remain in effect throughout the state of City declared emergency.

ADOPTED:



ATTEST:

Lynnette Dinkler, Acting Clerk of Council

APPROVED:



Brent Centers, Mayor

APPROVED:

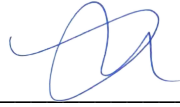
Approved as to form this 6th day of April, 2020



Lynnette Dinkler, Law Director

CERTIFICATE

I, the undersigned Acting Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of Resolution 2020-19 passed by that body on April 6, 2020 and published in the Middletown Journal.



Lynnette Dinkler, Acting Clerk of Council

CIVIL SERVICE COMMISSION
CITY OF FRANKLIN, OHIO
RESOLUTION 2020-01

**RESOLUTION REGARDING EMERGENCY HIRES FOR DIVISIONS OF FIRE AND
POLICE, CITY OF FRANKLIN, OHIO**

WHEREAS, the Civil Service Commission of City of Franklin, Ohio, Rules and Regulations (CSCRR), last amended on February 2, 2009 in Resolution 2009-07, in accordance with the authority conferred under Articles XV and XVIII and other provisions of the Constitution of the State and Ohio, the Charter of the City of Franklin, Ohio and Chapter 124 and other provisions of the Ohio Revised Code, do not contemplate the need to make emergency hires under the National, State and City declared State of Emergency in response to the battle against COVID-19; and

WHEREAS, CSCRR governs appointments of officers and employees in the Civil Service (CSCRR 1.01); and

WHEREAS, CSCRR are not to be construed to limit the City's Home Rule Authority or ability to maintain the operations and objectives of the Commission in serving the public (CSCRR 1.02); and

WHEREAS, the Commission acknowledges the National, State and City declared state of emergency as it relates to COVID-19; and

WHEREAS, the Commission acknowledges the need to immediately make emergency hires to adequately staff the City of Franklin Fire Division, which provides emergency medical services, and the City of Franklin Police Division; and

WHEREAS, the Commission acknowledges both of these Divisions are now placed under extreme, unforeseen, and never contemplated demands as emergency responders with regard to responding to COVID-19 in carrying out their missions to protect and serve the health, safety and welfare of the citizens of Franklin and surrounding communities within Warren County through mutual aid agreements; and

WHEREAS, the Commission acknowledges the Rules and Regulations as contained in the CSCRR, if employed (some of which may not be possible given the state of emergency and demands on the medical profession), may prohibit the City of Franklin from immediately making emergency hires in these Divisions; and

WHEREAS, the Commission acknowledges both the Fire Division and Police Division have triggered the emergency clauses under Union Contracts; and

NOW, THEREFORE, BE IT RESOLVED by the Civil Service Commission of the City of Franklin, Ohio, a majority of the members present concurring, that:

Section 1. That the Commission declares emergency hires employed to respond to COVID-19 are not contemplated by the CSCRR and, therefore, are not governed by the appointment Rules and Regulations contained in the CSCRR;

Section 2. That the City of Franklin must make additional emergency hires which will be temporary and intermittent hires in order to protect the health, safety and welfare of the City of Franklin Fire Division and Police Division Personnel to provide for adequate staffing, the best it can, under the extreme challenges presented by COVID-19.

Section 3. That in order to make these emergency hires to adapt to the extreme and immediate challenges presented by COVID-19, it is acknowledged the pre-employment practices ordinarily used by the Fire and Police Division must be immediately suspended because the emergency affords neither the time nor the access to required resources to utilize them.

Section 4. That the City will use good faith efforts to ensure emergency hires are lawfully qualified to serve in this state of emergency.

Section 5. That because only good faith efforts to select and hire Fire and Police Division emergency hires can be used at this time, Article VIII, Civil Service System, including but not limited Section 8.07 Probation Period, in the City of Franklin Charter never contemplated emergency hires and does not, therefore, apply to emergency hires.

Section 6. That to the extent any reviewing Court deems Article VIII, Civil Service System to apply to emergency hires, this Article is suspended by official action by the Civil Service Commission.

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Section 10. That to the extent any reviewing Court deems emergency appointments are governed by the CSCRR, the Commission hereby suspends all Rules and Regulations under the CSCRR governing the appointments, removals, transfers, lay offs, suspensions, reinstatements, promotions or reductions as an officer or employee for emergency hires for the City of Franklin Fire Division and the City of Franklin Police Division;

Section 11. That to the extent any reviewing Court deems emergency appointments are governed by the CSCRR and require action to be taken by Charter Amendment, the Commission declares such is an abrogation of Home Rule authority as it is impossible to take such action in a national, state and city declared state of emergency;

Section 12. That immediately hiring lawfully qualified people willing to serve the emergency need is the directive of this legislative action taken to exercise police powers to protect human life.

Section 13. That the Commission recommends to Council that it adopt this Resolution without modification to protect the health, safety and welfare in this national, state and city declared state of emergency;

Section 14. That to the extent required, if any, all notices required under the CSCRR will be posted immediately. As the Municipal Building and Franklin City School District are closed under the declared state of emergency, postings are ordered to be delivered to the Franklin City Manager and the Superintendent of Schools to be placed on each respective website so that all interested parties are provided with notice, which is the spirit and intent of the notices.

Section 15. That the Savings Clause, CSCRR 1.06, governs this Resolution and it is recommended to Council that any Resolution approving this legislation also be severable should any reviewing Court invalidate the legislative action and police power action taken herein.

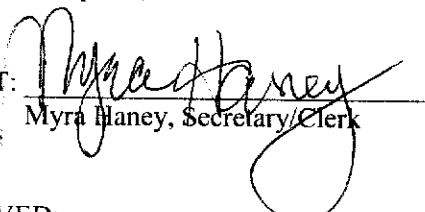
Section 16. That the City of Franklin is an equal opportunity employer and does not discriminate or retaliate based upon race; color; religion; sex; age; national origin; sex (wages); disability; disabled, recently separated, other protected, and armed forces service medal veterans; genetics.

Section 17. It is found that all formal actions of this Commission concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Commission, and that all deliberations of this Commission that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

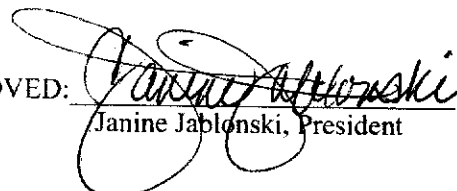
Section 18. That this Resolution is effective immediately upon passage under CSCRR 1.03 or alternatively upon publication under CSCRR 1.04 after (and assuming) City Council adopts this Resolution.

ADOPTED: April 1, 2020

ATTEST:



Myra Haney, Secretary/Clerk

APPROVED:


Janine Jablonski, President

APPROVED:

Approved as to form this 6th day of April, 2020



Lynnette Dinkler, Law Director