

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. 21-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, AMENDING CHAPTER 2.44 OF THE BUCKLEY MUNICIPAL CODE RELATING TO THE POLICE AND FIRE CIVIL SERVICE.

WHEREAS, the City established a Civil Service system for the police and fire departments through adoption of Ordinance #1055 in 1983; and

WHEREAS, the Civil Service code was updated and amended in 1987 and again in 1990, but has not been changed since; and

WHEREAS, the position of Secretary-Chief Examiner is established in BMC 2.44.060; and

WHEREAS, BMC 2.44.070 currently outlines the selection criteria for the position and provides that the minimum requirements for the position are that the person be a city resident, have sufficient aptitude to carry out the duties of the position, and pass such exams, including oral interviews, as the commission deems necessary to adequately determine the applicant's qualifications; and

WHEREAS, the position of Secretary-Chief Examiner has historically been filled by a citizen volunteer; and

WHEREAS, societal changes have made it increasingly more difficult to solicit volunteers for positions such as the Secretary-Chief Examiner, making it challenging to maintain the level of operational stability required to conduct the necessary testing, hearings and investigations on behalf of the Commission; and

WHEREAS, the Chairman of the Commission, the Police Chief, and the Public Safety Committee have discussed this problem and concluded that designating a full-time City staff member to serve in this capacity may lend stability and sustainability to the Commission; and

WHEREAS, the Civil Service Commission and Public Safety Committee are recommending that the City Council amend the current language in BMC 2.44 to provide for the designation of a full-time City staff member to serve in this role subject to the Chairman of the Commission's appointment; and

WHEREAS, the selection criteria in BMC 2.44.070 are no longer appropriate for a Secretary-Chief Examiner appointed from the City's staff;

NOW THEREFORE THE CITY OF BUCKLEY, PIERCE COUNTY, DOES ORDAIN
AS FOLLOWS:

Section 1. Chapter 2.44 of the Buckley Municipal Code entitled "Police and Fire Civil Service" is hereby amended to read as follows:

2.44.010 Civil service system established.

There is established a civil service system for the police and fire departments. The civil service system shall apply to all full-time paid employees of both departments, including dispatchers; provided, however, the positions of fire chief and police chief shall be excluded from the civil service system for any individual appointed to either of the positions after July 1, 1987.

2.44.020 Commission – Established.

There is established a civil service commission.

2.44.030 Commission – Membership.

(1) The members of the commission shall be appointed by the mayor. The members shall serve without compensation. The persons must have the following qualifications to be appointed:

- (a) Be a resident of the city for at least three years immediately preceding the date of appointment;
- (b) Be a United States citizen; and
- (c) Be a registered voter.

(2) There shall be three commissioners appointed for six-year terms, except the first three members of the commission shall be appointed for different terms, as follows: one to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of the commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good cause. If at any time a commission member is disqualified from acting by reason of conflict of interest or appearance of fairness or any other similar cause, then the remaining commissioners may appoint a temporary replacement for the position as it relates to the particular matter for which the commissioner was disqualified; provided, however, the disqualification shall in no way affect the disqualified commissioner's status as to any other matters other than the matter for which he was disqualified; provided further, however, the members of the civil service system that existed for the police department as of the effective date of the ordinance codified in this chapter shall continue as civil service commission members under the new system and shall fill their unexpired terms as if having been duly appointed to said term as of the effective date of the ordinance codified in this chapter.

2.44.040 Commission – Organization.

Members of the commission, when appointed by the mayor, shall proceed to the election of a chairman who shall continue in office until subsequent reorganization of the commission becomes necessary. All meetings of the commission shall be public except that upon unanimous vote of its members the commission may meet in executive session provided all requirements of the State Open Public Meeting Act are complied with. Regular meetings shall be held once each month and at other times upon call of the chairman or any two members. No release of material or statement of findings shall be made except with the approval of a majority of the board. Two members shall constitute a quorum and two affirmative votes shall be required for the transaction of any official business. The secretary and chief examiner shall attend all meetings and shall

record the actions taken and how the commissioners voted, and shall cause the minutes to be typewritten and presented to the commission for approval or correction at the next regular meeting. Upon approval, the minutes shall be signed by the chairman and countersigned by the secretary and chief examiner and shall become a part of the permanent files of the commission.

2.44.050 Commission – Powers and duties.

The civil service commission shall:

(1) Make rules governing examinations, appointments, promotions, transfers, demotions, reinstatements, suspensions, layoffs, discharges and any other matters related to the purposes of the commission;

(2) Classify for purposes of examination all positions covered by the civil service system. No appointments, promotions, or transfers shall be made to or from positions covered by this system except as provided in this chapter;

(3) Prepare and administer exams which shall be graded and open to all who meet appropriate job related qualifications provided the commission may, by rule, designate other methods of examination based on merit when, in the commission's judgment, a graded examination is not practicable. Such exams may include tests of physical fitness and/or manual skill. The commission may act as examiners or they may designate others to act as examiners;

(4) Conduct investigations and issue findings regarding any complaints that the mayor, council or commission staff member may bring before the commission as it relates to matters concerning the civil service and the rules and regulations prescribed under this chapter and such investigation may be made by the commission or by any commissioner designated by the commission for that purpose. In the course of such investigations the commission or designated commissioner shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to the investigation and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in superior court; and the oaths administered under this section and the subpoena issued under this section shall have the same force and effect as the oaths administered by a superior court judge in his judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of city ordinance, and punishable as such;

(5) After the appointing authority has classified all positions in the classified service, the commission shall assign to each class or position the appropriate title and the experience, knowledge, capacity, skill, education and other qualifications, including the minimum prerequisites, to be required for appointment. The secretary and chief examiner shall allocate every position in the classified service to one of the classes established in the plan. Thereafter the class titles so established shall be used in all personnel, budget, accounting and other financial documents and communications of the city. Additional classes may be established and existing classes may be divided, combined, or abolished in the same manner as originally adopted;

(6) Conduct hearings on appeals by employee from any disciplinary action taken against the employee, as provided in this chapter;

(7) Prepare a register of all persons eligible to fulfill any given position with the service, rank in accordance with their total scores on any testing; provided, however, veterans of any branch of the United States armed forces shall be given a preference as set forth in state and federal laws,

provided such preference can only be used once to successfully attain an initial appointment and it shall not apply in the case of promotional exams or appointment;

(8) Begin and conduct all civil suits which may be necessary for the proper enforcement of the civil service rules and city ordinances related to the civil service. The commission shall be represented by the city attorney unless said representation would conflict with the city attorney's other responsibilities as city attorney. In that case the commission may be represented by special legal counsel appointed by the commission.

2.44.060 Secretary-chief examiner.

The chairman of the commission shall appoint a member of the paid staff of the City to serve as the Secretary-Chief Examiner of the commission. Prior to the commission's appointment, the Mayor shall recommend a specific staff person to serve as the Secretary-Chief Examiner. Any staff member appointed shall serve without additional compensation above the compensation provided for the position held with the City. Nothing in this section shall require hiring under civil service procedures to fill this position or extending civil service protection to the person so designated.

The duties of the Secretary-Chief Examiner shall be to keep the records for the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe. The commission shall consult with the Mayor regarding the Secretary-Chief Examiner's work schedule.

2.44.090 Hearings and investigations.

(1) Any hearing or investigation which the commission is authorized to conduct may be conducted by the commission as a body or may be delegated by the chairman to a member or to the secretary and chief examiner, but no official decision of the commission shall be rendered until such time as two members have reviewed the evidence and concur in the decision.

(2) The procedure of any hearing or investigation shall be informal and shall not be restricted so as to deny the introduction of any evidence that the person in charge of the hearing deems pertinent; provided, however, the person conducting the hearing shall be responsible for the orderly administration of the hearing and may restrict the introduction of evidence that he deems irrelevant, repetitive, or not otherwise necessary in order to adequately analyze the subject matter before him. All witnesses shall be sworn under oath. Any person that has requested a hearing or filed a grievance or complaint may be compelled to testify and shall not be excused from answering questions and supplying information requested thereof.

(3) All decisions, opinions, and recommendations arising from a hearing or investigation by the commission shall be written and subscribed to by the members concurring, and shall be countersigned and filed as a permanent record by the secretary and chief examiner. Any member of the commission may submit a written minority or supplemental decision or report which shall be filed as a matter of record.

2.44.100 Suspensions.

The appointing authority may suspend for disciplinary purposes a permanent employee without pay for a period not to exceed 30 days in any 12-month period and the appointing authority may delegate this responsibility to a department head. The suspension may be reviewed by the civil service commission pursuant to the provisions of BMC 2.44.120.

2.44.110 Demotion and discharge.

The appointing authority may demote or discharge a permanent employee and may delegate this responsibility to his department head. In all such cases written reasons therefor shall be furnished the employee and the secretary and chief examiner not more than five days after the effective date of the demotion or discharge. The demotion or discharge may be reviewed by the civil service commission pursuant to the provisions of BMC 2.44.120.

2.44.120 Hearing on disciplinary action.

No disciplinary action as set forth in BMC 2.44.100 or 2.44.110 shall be taken without cause. Any employee against whom disciplinary action has been taken may, within 10 days of receiving written notice of the disciplinary action, request a hearing before the commission. The request must be in writing and a copy must be given to the appointing authority, as well as a copy to the secretary and chief examiner or a commission member within the 10-day period. If the written request is not timely served then the right to a hearing shall be deemed waived. Upon receiving a timely notice for a hearing, the commission shall schedule the hearing in due course. All hearings shall be open to the public unless the employee in his notice for hearing requests that the meeting be closed to the public. The employee is entitled to be represented by counsel at the hearing, at his own expense. The purpose of the hearing shall be confined to the determination of the question of whether the disciplinary action was taken for cause. The commission shall hear such testimony as is necessary in order to determine whether cause existed. The aggrieved employee shall have the right to testify before the commission. If the commission finds that there was cause for disciplinary action, but not for such a severe action as was taken, then the commission may impose a less severe sanction; provided, however, if the employee has been previously demoted, and the present disciplinary action is a demotion or discharge, then the commission, in their review, may not modify the order of discharge or demotion, but may only determine whether there was cause for the disciplinary action.

2.44.130 Cause for disciplinary action.

Any of the following are declared to be cause for disciplinary action against a member of the classified service by the appointing authority or his delegate. This list is not intended to be all-inclusive:

- (1) Incompetency, inefficiency, inattention to or dereliction of duty;
- (2) Insubordination;
- (3) Dishonesty, intemperance, immoral conduct, discourteous treatment of the public or a fellow employee;
- (4) Mental or physical unfitness for the position which the employee holds;
- (5) Commission of a felony or of an offense involving the use of intoxicants and/or drugs; provided, however, proof of commission of any of these acts shall be by preponderance of the evidence and not beyond a reasonable doubt;
- (6) Drunkenness or use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid, or preparation, to such an extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any of his position;

(7) Acceptance for personal use of a fee, gift, or other valuable thing in the course of work, when given in the hope or expectation of receiving a favor or better treatment than that accorded the public generally;

(8) Such other conduct as would show the alleged offender to be unsuitable for the position held.

2.44.140 Leaves of absence without pay.

In accordance with provisions of applicable ordinances, the appointing authority may grant a permanent employee leave of absence without pay as authorized by the commission; the appointing authority may delegate the responsibility to his department head. No leave without pay shall be granted except upon written request of the employee. Whenever granted, such leave shall be in writing and signed by the appointing authority or department head; a copy shall be filed with the secretary and chief examiner. Upon the expiration of a regularly approved leave without pay, the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of the employee on written leave to report promptly at the expiration of a leave shall be cause for discharge.

2.44.150 Vacation and sick leave.

Vacation and sick leave shall be granted in accordance with the city ordinance.

2.44.160 Resignations.

An employee desiring to leave in good standing the classified service of the city shall file with the appointing authority, at least two weeks before leaving, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the commission with a statement by the appointing authority or department head with respect to the resigned employee's service, performance, and any pertinent information concerning the cause for resignation. Failure to so comply, by the employee, shall be entered on the service record of the employee and may be cause for denying future employment by the city. The resignation of an employee who fails to give notice shall be reported by the appointing authority or department head immediately.

2.44.170 Department manuals.

The department heads for the police and fire departments shall submit to the commission any manual that they may have that contains a description of necessary rules and regulations for the administration of their respective departments. The commission shall, at a regularly scheduled meeting, either approve or disapprove the regulations. If approved, a copy of the regulations shall be made a part of the commission's records. Any amendments to the regulations shall be approved by the commission at a regularly scheduled meeting and the amendments shall become part of the commission's records.

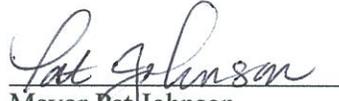
2.44.180 Political activity.

No person holding any office, place, position or employment subject to civil service is under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote or in any manner change the official rank, employment or compensation of any person under civil service, or promise or threaten so to do, for giving or withholding, or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose.

Section 2. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

Section 3. If any provision of this ordinance is held invalid, such invalidity shall not affect any other provision, or the applications thereof, which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are to be declared severable.

Introduced, passed, and approved this 13th day of October, 2015


Mayor Pat Johnson

Attest:


Joanne Starr, City Clerk

APPROVED AS TO FORM:


Office of the City Attorney

PUBLISHED: October 21, 2015

EFFECTIVE: October 26, 2015