

ORDINANCE NO. 2570

AN ORDINANCE OF THE CITY OF KIRKLAND, WASHINGTON, ESTABLISHING A CIVIL SERVICE SYSTEM FOR POLICE OFFICERS AND FIRE FIGHTERS EMPLOYED BY THE CITY OF KIRKLAND AND REPEALING CHAPTERS 3.52 AND 3.56 OF THE KIRKLAND MUNICIPAL CODE.

WHEREAS, the Kirkland City Council has determined the need to establish a civil service system substantially accomplishing the purposes of RCW Chapters 41.08 and 41.12; and

WHEREAS, the City Council has determined a need to specify the roll and function of the civil service commission and authorize such commission to adopt appropriate rules to effectuate this ordinance; and

WHEREAS, the City Council, after investigation, has determined that there is a need to provide for temporary and/or provisional appointments for a specified period of time, and the ability to extend such appointments under certain circumstances; and

WHEREAS, the City Council recognizes that the positions traditionally referred to as "police chief" and "fire chief" are primarily department head positions directly responsible to the City Manager under the council/manager form of government, and require an exercise of administrative and policy discretion and accountability beyond that normally delegated to civil service classified personnel; and

WHEREAS, the City Council has determined that the need to have the leadership of the fire and police chief departments responsive to the City Manager as other department heads in the City for better and more effective administration, and to assure the accomplishment of managerial and council policies and directives, and to further define those persons who are covered by a system of civil service is necessary and desirable; and

WHEREAS, the City Council, having studied this matter, received the input from the respective chiefs of the two departments and others, and based upon such study and input in addition to the reasons set forth above, having determined that the following ordinance should be passed, now, therefore,

THE CITY COUNCIL OF THE CITY OF KIRKLAND DO ORDAIN AS FOLLOWS:

Section 1. Chapters 3.52 and 3.56 of the Kirkland Municipal Code are hereby repealed.

Amend
according to
Municipal Code

Section 2. A new Chapter 2.12 entitled Civil Service Commission is hereby added to the Kirkland Municipal Code to read as follows:

2. 54. 010

"2.12.010 CIVIL SERVICE COMMISSION CREATED, APPOINTMENT, TERMS, REMOVAL AND QUORUM. There is hereby created in the City of Kirkland a Civil Service Commission which shall be composed of three persons. The members of such commission shall be appointed by the City Manager, provided that members of the Civil Service Commission constituted pursuant to the Kirkland Municipal Code chapters repealed by Section 1 of this ordinance shall be the initial commissioners of the newly created Civil Service Commission and shall continue in office until the terms of their original appointment expires. The members of such commission shall serve without compensation. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of such city for at least three years immediately preceding such appointment, and an elector of the county wherein he resides. Except for the initial commission, the term of office of such commissioners shall be for six years. Any members of such commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good cause; provided, however, that no member of the commission shall be removed until charges have been preferred, in writing, due notice and a full hearing had. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this chapter. Two members of such commission shall constitute a quorum and the votes of any two members of such commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission under or by virtue of the provisions of this chapter. Confirmation of said appointment or appointments of commissioners by any legislative body shall be required."

2.12.020 ORGANIZATION OF COMMISSION - SECRETARY - POWERS AND DUTIES OF COMMISSION. Immediately after appointment the commission shall organize by electing one of its members chairperson and hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of their duties.

They shall appoint a secretary and chief examiner, who shall 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 secretary and chief examiner shall be appointed as a result of competitive examination which examination may be either original and open to all properly qualified citizens of the City, or promotional and limited to persons already in the service of the appropriate department or of the department and other departments of said city, town or municipality, as the commission may decide. The secretary and chief examiner may be subject to suspension, reduction or discharge in the same manner and subject to the same limitations as are provided in the case of members of the police department. It shall be the duty of the Civil Service Commission:

- (1) To make suitable rules and regulations to implement this chapter which are not inconsistent with the provisions thereof. Such rules and regulations shall provide in detail the manner in which examination may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges shall be made. The rules and regulations and any amendments thereof shall be printed, mimeographed or multigraphed for free public distribution. Such rules and regulations may be changed from time to time;
- (2) All tests shall be practical and shall consist only of subject which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill;
- (3) The rules and regulations adopted by the commission shall provide for a credit of ten percent in favor of all applicants for appointment under Civil Service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States, including the army, navy, and marine corps and the American Red Cross. These credits apply to entrance examinations only;
- (4) The commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed.

Such investigations may be made by the commission or by any commissioner designated by the commission

for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, 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 the superior court; and 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 this chapter and punishable as such;

- (5) All hearings and investigations before the commission, or designated commissioner, or chief examiner, shall be governed by this chapter and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission; provided, however, that no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members;
- (6) To hear and determine appeals or complaints respecting the administrative work of the personnel department; the rejection of an examination and such other matters as may be referred to the commission pursuant to the duties outlined in subsection (1) of this section;
- (7) Establish and maintain in card or other suitable form a roster of employees covered by civil service;
- (8) Provide for, formulate and hold competitive tests to determine the relative qualifications of persons

who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions as established by the City, and to provide that employees laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed;

- (9) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the three persons highest on the eligible list for the class. If there are no such lists, the commission shall make provision in their rules for provisional or temporary appointments for such positions. Such temporary or provisional appointment shall not exceed a period of six (6) months in duration but may be extended for up to an additional six (6) months if for any reason it cannot be determined at the expiration of the initial appointment that the position being filled by temporary or provisional appointment will in fact be vacant, such as in the instance of a position vacant due to an officer on disability leave under the LEOFF Act, or for other good cause which in the discretion of the commission warrants an additional extension of such a provisional or temporary appointment.
- (10) Keep such records as may be necessary for the proper administration of this chapter."

"2.12.030 PERSONS INCLUDED - COMPETITIVE EXAMINATIONS - TRANSFERS, DISCHARGES AND REINSTATEMENTS. The provisions of this chapter shall include all full time, fully commissioned officers of the City's police and/or fire departments except for the position of Director of Fire and Emergency Medical Services, and the Deputy Director of Fire and Emergency Medical Services, the Police Chief and Assistant Police Chief, who because of the nature of their positions shall serve in their positions as other City department heads and assistants. All clerical, dispatchers, fire inspectors, mechanics and other employees of either the police department or fire department who are not fully paid commissioned police officers or fire fighters are excluded from coverage under this chapter. All appointments to and promotions covered by this chapter shall be made solely on merit, efficiency and fitness, which shall be ascertained by open competitive examination and impartial investigation. No person shall be reinstated in or transferred, suspended or discharged from any such place, position or employment contrary to the provisions of this chapter."

"2.12.040 EXISTING POSITIONS BLANKETED UNDER CIVIL SERVICE. For the benefit of the public service and to prevent delay, injury or interruption therein by reason of the enactment of this chapter, all persons having completed probation and in the police or fire department are hereby declared permanently appointed under civil service to the offices, places, positions or employments which they shall then hold respectively, and not on probation; and every such person is hereby automatically adopted and inducted permanently into civil service, into such office, place, position or employment which such person then holds even though that office, place, position or employment is not subject to the civil service requirements of this chapter."

"2.12.050 QUALIFICATIONS OF APPLICANTS. An applicant for a position of any kind under civil service, must be a citizen of the United States of America who can read and write the English language.

An applicant for a position of any kind under civil service must be of an age suitable for the position applied for, in ordinary good health, of good moral character and of temperate and industrious habits; these facts to be ascertained in such manner as the commission may deem advisable."

"2.12.060 TENURE OF EMPLOYMENT - GROUNDS FOR DISCHARGE, REDUCTION OR DEPRIVATION OF PRIVILEGES. The tenure of everyone holding an office, place, position or employment under the provisions of this chapter shall be only during good behavior and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

- (1) Incompetency, inefficiency or inattention to or dereliction of duty;
- (2) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee or any other act of omission or commission tending to injury the public service; or any other wilful failure on the part of the employee to properly conduct himself; or any wilful violation of the provisions of this chapter or the rules and regulation to be adopted hereunder;
- (3) Mental or physical unfitness for the position which the employee holds;

- (4) Dishonest, disgraceful, immoral or prejudicial conduct;
- (5) Drunkenness or use of intoxicating liquors, narcotics or any other habit forming drug, liquid or preparation to such 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 position under civil service;
- (6) Conviction of a felony, or a misdemeanor, involving moral turpitude;
- (7) Any other act or failure to act which in the judgment of the civil service commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service."

"2.12.070 PROCEDURE FOR REMOVAL, SUSPENSION, DEMOTION OR DISCHARGE - INVESTIGATION - HEARING - APPEAL. No person in the classified civil service who shall have been permanently appointed or inducted into civil service under provisions of this chapter, shall be removed, suspended, demoted or discharged except for cause, and only upon written accusation of the appointing authority or any citizen or taxpayer; a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, demoted or discharged may within ten days from the time of his removal, suspension, demotion or discharge, file with the commission a written demand for an investigation whereupon the commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made in good faith for cause. After such investigation the commission may affirm the removal or if it shall find that the removal, suspension or demotion was made for political or religious reasons, or was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged; which reinstatement shall, if the commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The commission upon such investigation in lieu of affirming the removal, suspension, demotion or discharge may modify the order of removal, suspension, demotion

or discharge by directing a suspension, without pay, for a given period, and subsequent restoration to duty, or demotion in classification grade, or pay; the findings of the commission shall be certified in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to the provisions of this section shall be had by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his/her defense. If such judgment or order be concurred in by the commission or a majority thereof, the accused may appeal therefrom to the court of original and unlimited jurisdiction in civil suits of the county wherein he resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and all papers on file in the office of the commission affecting or relating to such judgment or order, be filed by the commission with such court. The commission shall, within ten days after the filing of such notice, make, certify and file such transcript with such court. The court of original and unlimited jurisdiction in civil suits shall thereupon proceed to hear and determine such appeal in a summary manner; provided, however, that such hearing shall be confined to the determination of whether the judgment or order of removal, discharge, demotion or suspension made by the commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds."

"2.12.080 FILLING OF VACANCIES - PROBATIONARY PERIOD.
Whenever a position in the classified service becomes vacant, the appointing authority, if it desires to fill the vacancy, shall make requisition upon the commission for the names and addresses of the persons eligible for appointment thereto. The commission shall certify the names of the three persons highest on the eligible list for the class to which the vacant position has been allocated, who are willing to accept employment. If there is no eligible list for the class, the commission shall either establish such a list as provided in this chapter or otherwise determine what list shall be deemed appropriate for such class. The commission shall then certify the names of the three persons standing highest on said list. If more than one vacancy is to be filled an additional name shall be certified

for each additional vacancy. The appointing authority shall, after review of the persons so certified, appoint one person to each such vacant position. If any person certified by the commission is removed from the list or otherwise requests to not be considered for appointment the commission shall forthwith certify the next highest person on the list to replace those removed. The commission, in their rules, shall establish a procedure for removal of names from the eligibility list either prior to or subsequent to certification to the appointing authority.

Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the commission shall forthwith certify the names of the persons eligible for appointment to the appointing power, and said appointing power shall appoint one person so certified, provided they are found to in fact be qualified, to said position.

To enable the appointing authority to exercise a choice in the filling of the position, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of one year probationary service, as shall be provided in the rules of the civil service commission during which the appointing power may terminate the employment of the person certified to him/her, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing authority deems him/her unfit or unsatisfactory for service in the department, whereupon the appointing authority shall designate one of the persons certified as standing within the next three persons highest on any such list and such persons shall likewise enter upon said duties until some person is found who is deemed fit for appointment, employment or promotion for the probationary period provided therefor, whereupon the appointment, employment or promotion shall be deemed to be complete. The commission shall provide a procedure in their rules for extending probations for up to an additional six months if requested by the appointing authority."

"2.12.090 POWER TO CREATE OFFICES, MAKE APPOINTMENTS AND FIX SALARIES NOT INFRINGED. All offices, places, classifications, job descriptions, positions and employments coming within the purview of this chapter, shall be created by the mayor and city council or mayor or whoever otherwise is vested with power and authority to select, appoint, or employ any person coming within the purview of this chapter, and nothing herein contained

shall infringe upon the power and authority of any such person or group of persons, or appointing authority to fix the salaries and compensation of all employees employed hereunder."

2.12.100 ENFORCEMENT BY CIVIL ACTION - LEGAL COUNSEL.

It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this chapter and of the rules of the commission. The commission shall be represented in such suits by the chief legal officer of the city, or his/her designee, but said commission may in any case be represented by special counsel appointed by it."

"2.12.110 DECEPTIVE PRACTICES, FALSE MARKS, ETC.

PROHIBITED. No commissioner or any other person, shall, by himself or in cooperation with one or more persons, defeat, deceive, or obstruct any person in respect of his right of examination of registration according to the rules and regulations of this chapter, or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this chapter, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified or persuade any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration of application or request to be examined or registered."

"2.12.120 PENALTY - JURISDICTION. Any person who shall wilfully violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars and by imprisonment in the county jail for not longer than thirty days, or by both such fine and imprisonment."

"2.12.130 DEFINITIONS. As used in this chapter, the following mentioned terms shall have the following described meanings:

The term 'commission' means the Civil Service Commission herein created, and the term 'commissioner' means any one of the three commissioners of that commission.

The term 'appointing authority or power' includes every person or group of persons who, acting singly or in

conjunction, as the city manager, or the city manager's designee, is or are, invested with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

The term 'appointment' includes all means of selection, appointing or employing any person to hold any office, place, position or employment subject to civil service.

The term 'full paid police department' or 'full paid police officer' means that the officers and policemen employed in such are paid regularly by the city and devote their whole time to police duty.

The term 'full paid fire department' or 'full paid fire fighter' means that the officers and firemen employed in such are paid regularly by the city and devote their whole time to fire fighting and fire prevention activities and emergency medical services."

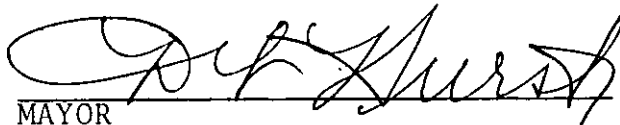
2.12.300 SEVERABILITY. If any section, subsection, subdivision, sentence, clause or phrase of this chapter, shall for any reason be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter."

"2.12.310 APPLICABILITY. The examination and eligibility provisions of this ordinance and establishment of positions covered by civil service by the provisions of this ordinance shall be effective for all appointments made after the effective date of this ordinance."

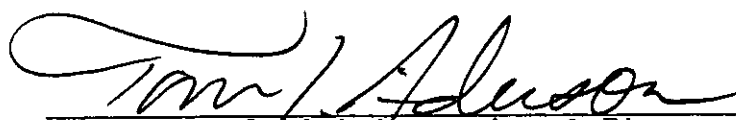
Section 3. This ordinance shall be in full force and effect five (5) days after passage and publication as provided by law.

PASSED by majority vote of the Kirkland City Council in regular open meeting on the 15th day of December, 1980.

SIGNED IN AUTHENTICATION THEREOF on the 15th day of December, 1980.

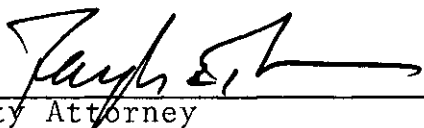

MAYOR

ATTEST:


Director of Administration & Finance
(ex officio City Clerk)

Ord. 2570

APPROVED AS TO FORM:



City Attorney