

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. 639, SERIES 1975

AN ORDINANCE RELATING TO:

THE ESTABLISHMENT OF A CIVIL SERVICE COMMISSION FOR THE DEPARTMENT OF PUBLIC PROTECTION (POLICE DEPARTMENT) OF THE CITY OF JEFFERSONTOWN, KENTUCKY, PRESCRIBING ITS DUTIES AND DECLARING THE QUALIFICATION OF ITS MEMBERS: PROVIDING FOR EXAMINATION OF ALL APPLICANTS FOR POSITIONS AS MEMBERS OF THE DEPARTMENT OF PUBLIC PROTECTION (POLICE DEPARTMENT) IN SAID CITY; PROVIDING FOR THE APPOINTMENT AND DISMISSAL OF POLICEMEN AND PROVIDING FOR APPEALS TO THE CIRCUIT COURT AND COURT OF APPEALS.

WHEREAS, the City Council of the City of Jefferson- town, Kentucky, desires to provide for the establishment of a CIVIL SERVICE COMMISSION for the Department of Public Pro- tection (Police Department) of the City of Jeffersontown in order that the Department may operate without fetter of po- litical consideration and,

WHEREAS, the City Council of the City of Jefferson- town, Kentucky desires to establish such a Commission which will examine and provide for appointment of candidates for positions with the Jeffersontown Department of Public Pro- tection (Police Department) as well as to insure tenure of police officers carrying out their appointed duties under conditions of good behavior and also to provide at the same time, a hearing mechanism for the review of charges brought against any member of the said Department which body will con- sider such charges and arrive at a decision which might include removal, reduction in grade, suspension and/or punishment of any member of the Department not fulfilling or properly car- rying out, his high calling as a police officer and,

WHEREAS, it is the desire of the City Council of the City of Jeffersontown to also provide Appeals from the CIVIL SERVICE COMMISSION process to the Circuit Court and the Court of Appeals of the State of Kentucky of a decision or recommend- ation made by said Commission not properly in keeping with this Ordinance, the Kentucky Revised Statutes and the Constitutions of the State of Kentucky and the United States of America.

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF
JEFFERSONTOWN, KENTUCKY, DOES ORDAIN AS FOLLOWS:

SECTION 1. CREATION OF CIVIL SERVICE COMMISSION.

Pursuant to Kentucky Revised Statute 95.761 (1) the City Council of the City of Jeffersontown hereby creates a CIVIL SERVICE COMMISSION and further hereby adopts, pursuant to Subsection (3) of the above mentioned Statute, the provisions of KRS 90.300 to 90.420 which latter mentioned sections govern Civil Service. Provided that inasmuch as the language of KRS 90.410 (1) is permissive with regard to the creation and maintenance of a pension plan that the City Council of the City of Jeffersontown hereby elects not to provide for such a pension fund as a part of this Ordinance.

SECTION 2. DEFINITIONS.

There is hereby incorporated into, and made a part hereof by reference the same as if copied herein at length, all of the definitions contained in KRS 90.300 even though these sections apply to cities of the second and third class inasmuch as cities of the fourth class are given the authority to adopt the provisions of KRS 90.300 to 90.420 inclusive, the same as a city of the third class, provided that the definition for pension fund under subsection (1) (g) of KRS 90.300 has no particular applicability inasmuch as it is not the intent of this Ordinance to create such a pension fund.

SECTION 3. CIVIL SERVICE COMMISSION TO HAVE AUTHORITY WITH REGARD TO DEPARTMENT OF PUBLIC PROTECTION.

A CIVIL SERVICE COMMISSION is hereby created by Ordinance which Commission shall hold examinations as to the qualifications of applicants for employment within the Department of Public Protection, sometimes hereinafter referred to as the Police Department, of the City of Jeffersontown, All employees of the Department of Public Protection are to be included within the scope of the

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

operation of this Ordinance, provided, however, that all members of the Department of Public Protection (Police Department) holding the rank of Major or higher or anyone classified as Chief of Police or Assistant Chief of Police shall be excepted from the operation of this Ordinance. Such latter mentioned excepted personnel shall be governed by other applicable Ordinances and Statutes as to their appointment, promotion, dismissal and all other related matters concerning their employment.

Any classified employee who shall accept an appointment and qualify as Major, Assistant Chief or Chief of the Department of Public Protection (Police Department), shall be deemed to have received a leave of absence from the classified service for and during the incumbency of, any of said respective positions. Should any such Major, Assistant Chief or Chief cease to serve as such, the same classification and rank which he had prior to said appointment shall be restored to him. Provided however that those members of the Department serving in any of the above excepted positions at the time of the enactment of this Ordinance shall retain as a "permanent" rank that rank held by him immediately prior to his appointment to one of the above excepted positions and shall be permitted to return to that rank within the Department (without loss of credit of time in grade or rank) at the time he resigns, or is relieved of, or otherwise vacates any of the above excepted positions.

The Mayor, subject to the approval of the City Council, shall appoint three persons who shall constitute the CIVIL SERVICE COMMISSION of the City of Jeffersontown. Each appointee shall be at least thirty (30) years of age and not related by either blood or marriage to the Mayor or any member of the City Council. The appointees shall originally be appointed one (1) for a term of one (1) year, one (1) for a term of two (2) years, and one (1) for a term of three (3) years, respectively, and the successors to these appointees shall be appointed in like manner, each for a period of three (3) years and until his

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner as original appointments. At the time of any appointment not more than two (2) Commissioners shall be adherents of the same political party. The appointee originally appointed for the term of three (3) years shall be Secretary of the Commission. Each appointee shall qualify by taking an oath of office as required by law. The salaries of the members of the Commission may be fixed by the City Council.

If the Mayor fails to appoint a CIVIL SERVICE COMMISSION within thirty (30) days after he has the power to so appoint or after a vacancy exists, the Mayor pro tem shall make the appointment and the appointee shall hold office until the expiration of the term and until his successor is appointed and qualified.

SECTION 4.

The CIVIL SERVICE COMMISSION shall make and enforce rules, not inconsistent with the provisions of KRS 90.310 to 90.410 or the Ordinances of the City of Jeffersontown, for examinations and registrations therefor.

SECTION 5. EXAMINATION; RATING; ELIGIBLE LIST.

1. The CIVIL SERVICE COMMISSION shall prescribe and propound such examinations as are proper, commensurate with vacant positions within the Department of Public Protection (Police Department), according to classification prescribed by Ordinance, shall set such times and places for holding examinations as may be proper and shall give public notice of examination by publication pursuant to KRS Chapter 424.

2. The CIVIL SERVICE COMMISSION shall, as soon after examinations as is practicable, certify to the Mayor a list of the applicants so examined, with the one having the highest average ranked first and all others ranked numerically according to the result of the examination.

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

3. Every soldier, sailor, marine, members of the Air Force, Army's Nurses Corp and members of the other branches of the Military Services and Red Cross Nurses who served during the period of hostility between the United States and the central powers in World War I and between the United States and Japan and Germany and World War II, or who may have served in the Military Service of this country during any military engagement including any Police action in which the United States may have been involved, who has been honorably discharged, is a resident voter of the City and who is an applicant for any position of Civil Service of the City of Jeffersontown shall be entitled to a five (5%) percent increase on his examination mark.

4. The Mayor may designate certain Civil Service positions and prescribe that for such positions the examination shall first be given exclusively to current employees; provided, however, that if less than three (3) employees with the minimum of two (2) years seniority achieve a passing grade, the examination shall be held in accordance with paragraph #1 of this Section.

SECTION 6. CLASSIFICATION OF EMPLOYMENT

The classification of members of the Department of Public Protection (Police Department) shall be as follows:

Chief of Police	Excepted
Assistant Chief of Police	Excepted
Members holding rank of	
Major or higher	Excepted
Captain	Included
Lieutenant	Included
Sergeant	Included
Corporal	Included
Police Officer Grade A	Included
Police Officer Grade B	Included

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

Police Officer Grade C (Probationary)	Not included until one year's service with the Department is completed at which time Class C Patrolman automatically becomes Class B Patrolman
Civilian Radio Operator	Included
Civilian Relief Radio Operator	Excepted
Civilian Clerk Class A	Included
Civilian Clerk Class B	Included

Effective with the enactment of this Ordinance the above employees are classified within and subject to the CIVIL SERVICE COMMISSION with the exception of those who have been designated as "excepted" therefrom. Those excepted employees shall derive no rights or privileges from the operation of this Ordinance nor shall they have recourse to hearings or reviews by the CIVIL SERVICE COMMISSION. Such "excepted" employees shall have recourse to the Chief of Police and/or the Mayor and shall serve entirely at the pleasure of the Mayor. Members of the Department holding any of the above mentioned "included" classifications at the time of the enactment of this Ordinance shall be deemed to hold that classification as their current "permanent" Civil Service Rank (acting or temporary ranks excepted) without being required to be tested by the Commission (See also Section 3, paragraph #2 supra, regarding members ranked as Chief, Assistant Chief or Major at the time of the enactment of this Ordinance.

SECTION 7. QUALIFICATIONS OF APPLICANT

1. The CIVIL SERVICE COMMISSION shall examine all applicants as to their physical and mental qualification for the particular classification wherein they seek employment.

6

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

To be eligible for examination for Police Officer Grade C or above, a person must not be less than 21 years of age (KRS 61.300) and for civilian positions within the Department of Public Protection (Police Department) a person, in order to be eligible for examination, must not be less than 18 years of age. In no event, for either Police Officer or civilian position, shall such person so applying have passed his or her 46th birthday. Provided, however, that each and every person applying for all positions covered by this Ordinance shall be a law-abiding citizen of sobriety and integrity, and must be able to read and write and understand the English language; provided, further, however, that any present employee who is over 45 years of age and who is otherwise qualified shall be eligible to take any promotional examination.

2. No person shall be appointed to a position under Civil Service until that person is a resident of Jefferson County, which county contains the City of Jeffersontown.

SECTION 8. PRESENT EMPLOYEES

Employees who at the time the provisions of KRS 90.310 to 90.410 are adopted by this City have been in the employ of this City for one year last past shall not be required to stand an original examination, and shall be eligible for all the benefits provided by KRS 90.310 to 90.410.

SECTION 9. APPOINTMENTS; PROMOTIONS

1. The Mayor shall make all Civil Service appointments, and the appointments shall be made only from the lists of applicants certified to him by the CIVIL SERVICE COMMISSION after examination. Appointments shall be

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

made only by the selection of one of the three holding the highest averages in the particular class and grade wherein the vacancy exists, except as provided in paragraph #5 of this Section.

2. Whenever it is imperative to fill a vacancy in classified Civil Service before the Commission can certify a list of as many as three persons eligible for appointment after competitive examination, the Mayor shall nominate a competent person for the same class or next lower rank to the Commission for non-competitive examination, and if certified by the Commission as qualified after the non-competitive examination he may be appointed provisionally to fill the vacancy until an appointment can be made after competitive examination. This provisional appointment shall continue only until a regular appointment can be made from the eligible list prepared by the Commission, which eligible list shall be prepared within ninety (90) days after a vacancy occurs.

3. In case of great emergency and when no one upon the eligible list or by promotion from a lower rank is available, an appointment may be made by the Mayor without examination, but in no case shall such appointment continue longer than sixty (60) days, and in no case shall successive appointments be made of the same person, or other persons, to such vacancy.

4. Temporary appointments made necessary by reason of illness or disability of regular employees shall continue only during such period of disability.

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

5. Whenever, from any cause, there shall be a vacancy in any of the classified services, the employee in said classification ranking next highest in seniority, if he chooses, shall succeed to and fill said vacancy, unless upon charges made by the City that said employee is not qualified to fill said vacancy, and after notice and upon trial to determine his qualifications in the same manner as is now required for the dismissal, suspension or reduction in grade or pay of an employee, it be established by the City that said employee has not the necessary qualifications to enable him to discharge the duties of the office or position in which the said vacancy occurs. Provided that in case of a vacancy in the classified service, where peculiar and exceptional qualifications of a particular professional or educational character are required, upon satisfactory evidence that for reasons stated in writing by the Mayor, competitive examination in such case has failed to provide an eligible list; the Commission may suspend the provisions requiring competitive examination under Civil Service.

6. Where the service to be rendered by an appointee in the classified service is for a temporary period not to exceed sixty (60) days and the need of such services is imperative, the appointing authority may select for that temporary service any person on the list of those eligible for permanent appointment. Successive temporary appointments to the same position shall not be made under this provision. The acceptance or refusal by an eligible applicant of a temporary appointment shall not affect his standing on the register for permanent employment; nor shall temporary service be counted as part of the probationary service in case of subsequent appointment to a permanent position.

7. No person shall be certified by the Commission from an eligible list more than four (4) times to the same Mayor for the same or similar position.

SECTION 10. DISMISSAL, SUSPENSION OR REDUCTION.

1. No employee in the classified service of the City of

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

Jeffersontown shall be dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law involving moral turpitude, or, violation of any rule adopted by the City Council or CIVIL SERVICE COMMISSION.

2. Any person may prefer charges in writing against any employee by filing them with the Mayor who shall communicate the charges without delay to the CIVIL SERVICE COMMISSION of the City. The charges must be signed by the person making them and must set out clearly each charge. The appointing authority shall, whenever probable cause appears, prefer charges against any employee whom he believes guilty of conduct justifying his removal. Upon the filing of charges the Clerk of the CIVIL SERVICE COMMISSION shall notify its members and serve a copy of the charges upon the accused employee with a statement of the date, place and hour at which the hearing of charges will begin, this hearing not to be held within three (3) days of the date of the service of charges upon the accused employee. The day on which the charges are served on the accused employee shall count as one of the days of notice. The person accused may in writing waive the service of charges and demand trial within three (3) days after they have been filed with the Clerk of the CIVIL SERVICE COMMISSION.

3. Upon the hearing the charges shall be considered traversed and put in issue, and the trial shall be limited to the issues presented by the written charges.

4. The CIVIL SERVICE COMMISSION shall have the power to summon and compel attendance of witnesses at all hearings by subpoena issued by the Clerk of that Body and served upon the witnesses by members of the Department of Public Protection (Police Department) of the City of Jefferson-town or any officer authorized to serve subpoenas, and the CIVIL SERVICE COMMISSION shall have the power of a Justice of

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

the Peace to punish for contempt. The accused employee shall have the right to have subpoenaed any witnesses he may desire, upon furnishing their names to the Clerk. As many as ten (10) subpoenas may be served upon the request of the accused employee without charge, but each additional subpoena requested by him shall be issued by the Clerk and served by the Department of Public Protection (Police Department) only upon payment of \$.50 to the City Clerk by the employee. The action and decision of the CIVIL SERVICE COMMISSION on the charges shall be reduced to writing and kept in a book for that purpose and the written charge shall be attached to the book containing the Body's decision.

5. In cases where the head of the Department or the Mayor has probable cause to believe an employee has been guilty of conduct justifying his removal or punishment he shall immediately suspend that employee from duty or from both pay and duty pending trial and the employee shall not be placed on duty or allowed pay thereafter until the charges are heard by the CIVIL SERVICE COMMISSION.

6. The CIVIL SERVICE COMMISSION shall punish any employee found guilty or reprimand or a suspension for any length of time not to exceed six (6) months, or by reducing the grade, if the employee's classification warrants, or by combining any two or more of these punishments, or by dismissal. No employee shall be reprimanded, removed, suspended or dismissed except as provided in this Section.

SECTION 11. APPEALS TO CIRCUIT COURT AND COURT OF APPEALS.

1. Any employee within the classified service found guilty by the CIVIL SERVICE COMMISSION of any charges provided by this Ordinance may appeal to the Circuit Court of the County in which the City is located, if the punishment is a suspension of more than thirty (30) days, a reduction in grade, or dismissal, but the enforcement of the judgment of the CIVIL SERVICE COMMISSION shall not be suspended pending appeal.

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

2. Upon request in writing by the accused, and the payment of costs therefor, the Clerk of the CIVIL SERVICE COMMISSION shall file a certified copy of the charges and the judgment of that Body in the Circuit Court. Upon the transcript being filed the case shall be docketed in the Circuit Court and tried de novo.

3. If the Clerk of the Commission fails to certify the transcript to the Circuit Court within five (5) days after the request is made, then the aggrieved person may file an Affidavit in that Court setting out as fully as possible the charges made at the time of trial and judgment, together with a statement that demand for the transcript had been made of the Clerk more than five (5) days prior to filing of the Affidavit. Upon filing of this Affidavit in the Circuit Court, the case shall be docketed in that Court and the Court may compel the filing of the transcript by the Clerk by entering the proper mandatory Order, and upon failure of the Clerk so to do, he shall be liable to fine and imprisonment for contempt. Such appeal shall have precedence over other business and be determined speedily.

4. An appeal will lie from the judgment of the Circuit Court to the Court of Appeals as in other cases, if the original punishment fixed by the CIVIL SERVICE COMMISSION was dismissal of the accused.

SECTION 12. NUMBER OF EMPLOYEES; SALARIES; PROTECTION FROM DISMISSAL, SUSPENSION OR REDUCTION; ABOLISHMENT OF OFFICE OR POSITION; REINSTATEMENT.

1. The City Council shall fix by Ordinance the number and classification of City employees, and the salaries for each classification. When the number of employees and their classification has been fixed by Ordinance, no employee shall be dismissed, suspended or reduced in grade or pay for any reason except that set out in this Ordinance or KRS 90.360.

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

2. Provided, further, that whenever in the exercise of a reasonable discretion, it shall be the judgment of the City Council that economic necessity requires it, or that there is no longer a need for a particular office or position to exist, the board of commissioners may abolish said office or position and any officer or employee occupying said office or position may be laid off or suspended until and if such office or position is recreated or re-established. The abolition of any office or position must not be a subterfuge to affect another purpose, but must be actual and bona fide and must not amount to the mere alteration, modification or abolition of title only.

3. Should any officer or employee conceive that he has been aggrieved by the abolition or the proposed abolition of said office or position, he may, at any time within ninety (90) days, file a petition in equity in the Circuit Court of the County wherein the City is located, stating his reason why the position or office has not been fairly abolished, or why it should not be abolished, and upon issue joined thereon by the City, the burden shall be on the latter to establish the necessity for and the good faith of the City in abolishing said office or position. The right to abolish and the right to have the office or position recreated shall be determined as other equitable actions are determined.

4. If the office or position is recreated or re-established within five (5) years, then any person who was deprived of his office or position shall be restored to the office or position he formerly held or occupied in the order of his seniority if he shall elect to do so, and the City shall advise said officer or employee at his last known address and advertise pursuant to KRS Chapter 424, that the office or position has been recreated or re-established.

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

SECTION 13. ALL PROCEEDINGS OF COMMISSION TO BE OPEN.

All proceedings of the CIVIL SERVICE COMMISSION shall be open to the public and minutes of all official action shall be recorded by the Secretary of the said Commission and maintained in the office of the City Clerk in a permanent file with reasonable access to any citizen demonstrating legitimate need to view same. Permission to examine such records shall not be withheld from any citizen who shall give timely notice of his desire to make such an examination.

SECTION 14. PROHIBITION OF POLITICAL ACTIVITY.

No person shall be appointed to any position because of political partisan service rendered by him or his family, or because of political sentiment or affiliation, nor shall any person be dismissed or reduced in grade because of any political opinion.

SECTION 15. ELECTION AGAINST ESTABLISHMENT OF PENSION FUND.

1. Although KRS 95.861 (3) specifically provides that a City of the fourth class is authorized to adopt certain statutory sections of the Kentucky Revised Statutes which relate to the establishment of a pension plan, the same as a City of the third class and, although KRS 90.410 allows for the creation and maintenance of a pension fund should the City Council so desire to provide for same it is the election of the City Council of the City of Jeffersontown, Kentucky, in this Ordinance to not provide for same and therefore any language which may relate to a pension fund in this Ordinance is inapplicable to the extent that no such fund exists nor is intended to be brought into existence by this Ordinance.

SECTION 16.

Sections of this Ordinance shall be deemed several and should any section or provision of this Ordinance be declared by the Courts to be unconstitutionally invalid, the same shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the parts so declared to be unconstitutionally invalid.

CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY

ORDINANCE NO. _____, SERIES 1975

SECTION 17.

That all Ordinances or parts of Ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as the same affect this Ordinance.

SECTION 18.

That this Ordinance shall take effect and be in force immediately upon its passage and publication.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF JEFFERSONTOWN, THIS _____ DAY OF _____, 1974.

VETOED:

APPROVED:

MAYOR

Harold D. Meyer Jr.

MAYOR

DATE

January 20, 1975

DATE

ATTEST:

Julma Omerger

CLERK OF THE COUNCIL