



CITY OF KIRKLAND

Police Department

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MEMORANDUM

To: Kurt Triplett, City Manager

From: Cherie Harris, Chief of Police
Kevin Raymond, City Attorney

Date: July 8, 2016

Subject: ORDINANCE TO AFFIRM AND CLARIFY THE AUTHORITY OF THE APPOINTING AUTHORITY TO DETERMINE MOST QUALIFICATIONS OF APPLICANTS FOR CIVIL SERVICE POSITIONS

RECOMMENDATION:

Staff recommends that the City Council approves the attached ordinance amending Kirkland Municipal Code Section 3.54.050 to affirm and clarify the authority of the City Manager or the City Manager's designee, as appointing authority, to determine most qualifications of applicants for all civil service positions.

BACKGROUND:

In accordance with Chapter 41.08 RCW related to city firefighters and Chapter 41.12 RCW related to city police, the City of Kirkland ("City") has adopted Chapter 3.54 of the Kirkland Municipal Code ("KMC"). KMC Chapter 3.54 creates a civil service commission ("CSC") for the City and substantially accomplishes the purposes of both referenced RCW chapters. The object of civil service regulations is to implement a system of examinations that "provide a system for the selection of capable officers uninfluenced by mere personal or political consideration," and also to allow each city's commission to serve as a "check" on the ability of an appointing authority to remove an employee based on "mere personal, political, or other insufficient motives." *Easson v. City of Seattle*, 32 Wash. 405 (1903).

Pursuant to KMC Section 3.54.020(1), accordingly, the CSC is empowered to make "suitable" rules and regulations to implement the chapter that "are not inconsistent with the provisions thereof" related to "the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges shall be made." Pursuant to KMC Section 3.54.050, the City has also granted the CSC authority to determine a limited number of enumerated qualifications of applicants for civil service positions; for example, age suitability and the ability to read and write the English language.

The intent of the proposed ordinance is to affirm and clarify that except for those qualifications specified in KMC Section 3.54.050, the City appointing authority or power (defined as the City Manager or the City Manager's designee) retains the authority to determine qualifications of applicants for all civil service positions.

The need for this affirmation and clarification has been prompted in part by the Police Chief's need to fill a number of current police officer vacancies in the Police Department ("Department"). While strong efforts are being made to recruit and train new police officers, attracting lateral hires will also be required to fill the positions. The Police Chief desires the ability to modify the current requirement that all lateral police officers must have a post-secondary education to be hired by the City of Kirkland. The Police Chief believes that "equivalent" experience such as military service or defined years of service as a police officer in another jurisdiction should be allowed as alternatives to post-secondary education. The City Manager supports this need for flexibility and creativity in attracting lateral hires for the reasons outlined at the end of the memo.

Authority and Accountability for Minimum Qualifications

However, the CSC's rules and regulations impose the post-secondary education requirement on lateral transfers. More specifically, by CSC rules, lateral officer appointment candidates are presently required to have 90 quarter credit hours or 60 semester credit hours of post-secondary educational experience in order to qualify for employment in the Department. This lateral hire education requirement is the only such requirement in the CSC rules. There are no similar requirements in the rules for hiring new officers, even though the Department has chosen to set education requirements for new officers. Nor are there education requirements in the CSC rules for promotions of any police officer, or for hiring or promoting any firefighter positions that are also under the purview of the CSC. The City has set the educational standards for each of these positions separate from the CSC.

This anomaly of a Civil Service Commission qualification rule only for lateral police officers prompted the City Manager to review where the appropriate authority for setting minimum qualifications for police and fire should reside. The City Attorney's Office and a consulted attorney concluded that the City Council has the authority, through the adoption of legislation, to determine who sets minimum qualifications. Municipal Code provisions supersede adopted Commission rules and will provide clarity and eliminate ambiguity.

After careful legal research and policy review, the City Manager recommends that qualification authority should rest with accountability. The City Council and the public appropriately hold the City Manager, Police Chief and Fire Chief accountable for the performance of Police Officers and Firefighters. Therefore the City Manager proposes that the authority to set minimum qualifications should be vested with the City Administration.

This ordinance, if adopted, would affirm and clarify that the determination of most civil service position qualifications, such as post-secondary educational requirements for lateral police officer hires, is the responsibility of the City Manager or designee, in this particular instance the Police Chief.

This ordinance is also respectful of the current role of the Kirkland Civil Service Commission. Most agenda items that come before the Commission are procedural in nature, such as certifying an eligibility list, authorizing a promotional exam process, updating Civil Service rules and regulations, or hearing candidate appeals of test results. Historically the Commission has had limited involvement in actually establishing minimum qualifications for civil service job classifications. Their role is largely more general oversight over hiring processes. The Commission relies heavily on the Secretary/Examiner and appointing authority to ensure

applicants meet the minimum qualifications of the positions applied for. Staff appreciates and respects the hard work and critical role of the Commission in ensuring fair and unbiased hiring, promotion and termination processes and is not proposing any changes to these traditional responsibilities of the Civil Service Commission.

The Rationale for Modification of Lateral Hire Qualifications

If the Council concurs the authority should rest with the City Manager, the next issue is why the potential change in lateral qualifications is being considered. The Department has experienced a significant number of retirements and resignations in the past twelve months. These two factors alone mean the Department will have at least eight vacant commissioned officer positions as of the end of June 2016. There are also an estimated 10 more officers who will be eligible for retirement (20 years of service and at least 53 years of age) within the next year.

It is estimated that there are at least 38,000 unfilled law enforcement positions across the nation. Police agencies at the local, county and state levels in Washington are also experiencing great difficulty in attracting qualified police applicants in sufficient numbers. For example, there are presently an estimated 75 law enforcement vacancies across King and Snohomish Counties, and the City of Seattle has pledged to add an additional 175 officers. Law enforcement agencies are finding themselves in increasing competition from increasingly scarce applicant pools, and most agencies have responded with some mixture of recruitment initiatives, candidate incentives, and the removal of non-essential qualifications barriers.

The Department has already increased recruitment opportunities in the following ways:

- Streamlined application processes for lateral applicant officers, which had previously mirrored the more extensive entry level officer process for individuals without prior law enforcement experience.
- Implementation of a new patrol schedule, as the previous schedule had been identified by many as an obstacle to recruiting lateral officers.
- New marketing/recruitment strategies that include traditional, web based and social media modes, as well as target marketing to include billboard advertising on Metro buses throughout King County. In addition, new radio/web based advertising on two of the most popular radio stations in the Seattle area.

Despite these recruitment initiatives, the City is presently unable to fill its current and growing police officer vacancies. The Department needs greater flexibility to adapt to this serious challenge so that it can meet public safety needs, staff appropriately, and remain competitive as an employer with area law enforcement agencies. The current CSC educational requirements for lateral hires is an unnecessary impediment. Many outstanding police officers do not have post-secondary educational experience. Only one of the City's ten comparative ("comp") cities imposes a post-secondary educational requirement on its lateral police officer hires. These other cities clearly recognize the importance of the police officer experience that lateral hire candidates offer. The ordinance would serve an immediate and pressing need by allowing the Police Chief flexibility in increasing the Department's pool of qualified candidates for police officer positions in the City of Kirkland.

ORDINANCE O-4527

AN ORDINANCE OF THE CITY OF KIRKLAND AFFIRMING AND CLARIFYING THE POWER OF THE APPOINTING AUTHORITY OR DESIGNEE TO DETERMINE MOST QUALIFICATIONS FOR CIVIL SERVICE POSITIONS.

1 WHEREAS, Chapter 3.54 of the Kirkland Municipal Code ("KMC")
2 has been adopted by the City of Kirkland ("City") to provide for civil
3 service in the City's fire and police departments; and
4

5 WHEREAS, Chapter 3.54 creates a civil service commission
6 ("CSC") for the City; and
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8 WHEREAS, Chapter 3.54 KMC substantially accomplishes the
9 purposes of Chapter 41.08 related to city firefighters and Chapter 41.12
10 RCW related city police; and
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12 WHEREAS, the City has the authority to amend Chapter 3.54
13 KMC from time to time to provide for system policies and procedures
14 that best suit the local conditions of the City; and
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16 WHEREAS, the City wishes to amend Chapter 3.54 KMC to affirm
17 and clarify that with a limited number of specific exceptions it is the
18 responsibility of the appointing authority or power, and not the CSC, to
19 determine the qualifications of applicants for all civil service positions in
20 the City.
21

22 NOW, THEREFORE, the City Council of the City of Kirkland do
23 ordain as follows:
24

25 Section 1. Section 3.54.050 of the Kirkland Municipal Code is
26 amended to read as follows:
27

28 **3.54.050 Qualifications of applicants.**

29 An applicant for a position of any kind under civil service must be a
30 citizen of the United States of America who can read and write the
31 English language. An applicant for a position of any kind under civil
32 service must be of an age suitable for the position applied for, in
33 ordinary good health, of good moral character and of temperate and
34 industrious habits; these facts to be ascertained in such manner as the
35 commission may deem advisable. Notwithstanding any provision of this
36 chapter actually or seemingly to the contrary, all other qualifications for
37 applicants for a position of any kind under civil service will be
38 determined by the appointing authority or power.
39

40 Section 2. This ordinance shall be in force and effect five days
41 from and after its passage by the Kirkland City Council and publication,
42 as required by law.

43 Passed by majority vote of the Kirkland City Council in open
44 meeting this _____ day of _____, 2016.

45
46 Signed in authentication thereof this _____ day of
47 _____, 2016.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney