

COMMONWEALTH OF KENTUCKY  
CITY OF MAYSVILLE  
Ordinance No. 21-03

AN ORDINANCE AMENDING CODE OF ORDINANCES SECTION 90

Summary

This Ordinance amends Code of Ordinances Chapter 90 to eliminate the necessity of advertising examination dates and times in a local newspaper and to alter the process for promotions within the Police and Fire Departments eliminating the scoring process.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF MAYSVILLE, KENTUCKY, as follows:

- (1) Code of Ordinances Section 90 is hereby amended to read in its entirety as follows:

**Sec. 90.01. - Statutory authority.**

The Police and Fire Departments of the city shall hereafter operate under the authority of KRS 95.440 et seq.

**Sec. 90.02. - Merit system.**

The Police and Fire Departments of the city are placed under a merit system according to the following rules and regulations established for the organization of these departments and for the appointment, promotion, vacations, discipline and discharge of police officers and firefighters.

**Sec. 90.03. - Reserved.**

**Sec. 90.04. - Applicants.**

(A) (1) An applicant for appointment as a firefighter or police officer shall file a written application with the Human Resources Department.

(2) That application shall state relevant information required by the Human Resources Director.

(B) Any person, regardless of residence, race, political faith or party affiliation, may apply for Police and Fire Department vacancies.

(C) Any person who takes the examination for patrol officer or firefighter shall remain eligible to fill vacancies for one year from the date of examinations without reexamination.

(D) Fire fighters or police officers who have completed all Kentucky training requirements shall not be required to take the examination.

#### **Sec. 90.05. - Examination for original appointments.**

(A) The staff shall conduct open competitive written examinations to test the fitness of applicants for positions of firefighters and police officers; their ability to read, write and understand the English language; their general intelligence, observation, aptitude and memory; and their knowledge of laws and rules governing the duties of the positions applied for.

(B) Any person may apply for examination as often as he or she desires, but he or she may not insist upon an examination except when the staff in due course next conducts an examination.

~~[(C) The time, place and purpose of examination shall be advertised in the local newspaper at least once. The staff shall mail written notice of the examination to each person whose application is on file to be mailed written notice thereof, not less than seven nor more than 21 days prior thereto.]~~

~~[(D) C]~~ The staff shall keep records of their proceedings and examinations for ~~[five]~~ **1** year[s].

#### **Sec. 90.06. - Qualifications.**

(A) No person may be appointed to the Police or Fire Department unless he or she shall satisfy all the following qualifications:

- (1) He or she is a citizen of the United States;
- (2) He or she is at least 21 years old for appointment to the Police Department and is at least 18 years old for appointment to the Fire Department;
- (3) After an offer of employment has been made, he or she shall have passed an examination to determine his or her physical and mental fitness to perform job-related functions;
- (4) He or she shall have passed an agility test;
- (5) He or she shall have passed the written examination administered by the staff;
- (6) He or she shall have graduated from high school or attained a GED equivalent;
- (7) He or she is a person of sobriety and integrity;
- (8) He or she has never been convicted of a crime involving moral turpitude or other felony;
- (9) He or she shall have not, within a period of two years, hired himself or herself out, performed any service, or received any compensation from any private source for acting as a privately paid detective, police officer, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agencies supplying private detectives, private police officers or guards, or advertised or solicited any business in connection with any labor dispute;
- (10) Police applicants shall satisfactorily complete a psychological exam, agility test, polygraph test, and pre-employment drug screen given by the Department of Criminal Justice Training; and
- (11) ~~[Fire applicants shall satisfactorily complete the Candidate Physical Ability Test (CPAT) given by the Kentucky Fire Commission]~~ **Fire applicants shall satisfactorily**

complete the CPAT given by an accredited agency accepted by the KY Fire Commission.

- (B) The Chief of the respective department shall recommend to the Board of Commissioners the appointment of one or more of the applicants after determining the applicant has met the qualifications listed in (A), completed a panel interview, and an interview with the Chief and Human Resources Director, or he or she may recommend further examination to produce new eligible applicants, and the Board of Commissioners may in its discretion appoint a then eligible applicant or direct further examination.
- (C)
  - (1) All police officers shall, within one year of their appointment, successfully complete basic training administered or approved by the Kentucky Law Enforcement Council.
  - (2) All police officers shall, upon completion of the basic training required, successfully complete 40 hours of annual in-service training administered or approved by the Kentucky Law Enforcement Council.
  - (3) In the event of an injury, illness or personal tragedy which prevents the officer from completing the required training, basic or in-service, the officer shall complete the training within 180 days after return to duty.
  - (4) Any police officer who fails to successfully complete the basic or in-service training within the specified time period shall not be authorized thereafter to carry deadly weapons or make arrests and shall be subject to disciplinary action pursuant to section 90.07 below.
- (D)
  - (1) All fire officers shall, within one year of their appointment, successfully complete basic training administered or approved by the Kentucky State Fire Commission.
  - (2) All fire officers shall, upon completion of basic training required, successfully complete 100 hours of annual in-service training administered or approved by the Kentucky State fire Commission.
  - (3) In the event of an injury, illness, or personal tragedy which prevents the officer from completing the required training, basic or in-service, the officer shall complete the training within 180 days after return to duty.
  - (4) Any fire officer who fails to successfully complete the basic or in-service training within the specified period shall be subject to disciplinary action pursuant to section 90.07.

**Sec. 90.07. - Discipline.**

- (A) All disciplinary action against members of the Police and Fire Departments, and appeals therefrom shall be conducted in accordance with KRS 15.520 and 95.450 through 95.460, provided that by mutual consent of a department member and its Chief, formal charges and hearing may be dispensed with if there is signed and filed with the City Manager an agreed statement of facts and of punishment not exceeding three days suspension from duty without pay.
- (B) The following behavior, in addition to other conduct constituting inefficiency, misconduct, insubordination or violation of law, shall be grounds for dismissal, suspension or punishment in accordance with KRS 95.450:
  - (1) Using indecent, profane or obscene language while on duty or in uniform;
  - (2) Conduct unbecoming an officer or prejudicial to the service;

- (3) Being absent from duty without proper permission or sufficient excuse;
- (4) Preventable impoliteness or rudeness in performance of duty;
- (5) Untidiness or disarray of his or her person or uniform while on duty;
- (6) Mental or physical unfitness for the position;
- (7) Communicating confidential information relating to fire and police work without permission;
- (8) Being intoxicated, buying or using alcoholic beverages while on duty;
- (9) Use of illegal drugs or narcotics on or off duty;
- (10) Selling, trading, or buying chances or bets, or any other gambling while on duty;
- (11) Sexual conduct while on duty;
- (12) Theft;
- (13) Insubordination or disrespect to a superior officer, the City Manager or any member of the Board of Commissioners;
- (14) Conviction of a felony or misdemeanor involving conduct amounting to moral turpitude or a pattern of misconduct as displayed by a series of misdemeanor convictions;
- (15) Cowardice, inefficiency or neglect in the performance of duty or disobedience of a proper order of a superior;
- (16) Any immoral habits or improper conduct that affects his or her employment by the city or causes undue ridicule of his or her department, and adversely affects the operation thereof;
- (17) Receiving any compensation or remuneration other than that regularly provided and paid out of the public funds to the amount and in the manner provided by law, or, directly or indirectly, in the form of donations to any governmental unit or officer thereof or otherwise, from any person for the performance of any service or duty, except that he or she may be compensated for employment during hours other than regular or scheduled duty hours, for example, any private employment as guard or watchperson, or in any other private or similar employment;
- (18) Participating directly or indirectly in any labor dispute during his or her off duty hours;
- (19) Paying or collecting any assessments made by political organizations, contributions to political campaign funds, being active in politics or working for the election of candidates for office in violation of KRS 95.470(3);
- (20) Noncompliance with the grooming or dress code provisions of section 90.33 below;
- (21) Failure to satisfactorily complete any training or education programs required by the Department Chief;
- (22) Failure to observe any other requirement of this chapter or any department rule; or
- (23) Publicly criticizing or ridiculing the department, its policies, or other members by talking, writing, or expressing themselves in any manner, when the expression:
  - (a) Is directed toward a person with whom the member has a working relationship and the expression impairs the working relationship;
  - (b) Is stated or inferred as the official position of the department, without obtaining the prior approval of the Department Chief;
  - (c) Improperly discloses investigative or confidential information;
  - (d) Tends to impair the operation of the department by interfering with its efficiency or harmony or with the ability of supervisors to maintain discipline; or
  - (e) Has been made with reckless disregard for truth or falsity.

**Sec. 90.08. - Examination.**

The Chiefs of the respective departments may, at any reasonable time as they deem necessary, require any member of their departments to submit to an examination at the expense of the general fund solely to determine the ability to perform essential job-related functions, and the City Manager may likewise require the departmental Chiefs to submit to examination solely to determine the ability to perform essential job-related functions.

**Sec. 90.09. - Tenure.**

- (A) Members of the Police and Fire Departments shall hold their positions during good behavior and ability to perform the essential job-related functions, subject to the probationary provisions of section 90.25 below, except that the Board of Commissioners may decrease the number of police officers or firefighters as it may deem proper in accordance with KRS 95.440(3).
- (B) The appointment and continuance in office of members of the Police or Fire Departments shall depend solely upon their ability and willingness to enforce the law and comply with departmental rules, and shall not be a reward for political activity or contribution to campaign funds.

**Sec. 90.10. - Grades and minimum personnel.**

- (A) The Police and Fire Departments shall each consist of not less than ten members, and may include the following grades:

Police Department	Number
Chief	1
Major (Asst. Chief)	1
Lieutenant	(as required)
Sergeant	(as required)
Detective	(as required)
Patrolmen	(as required)
Recruits	(as required)
Dispatcher	(See KRS 15.530—15.590 as to requirement for training. The number of personnel in this category is as required).

Fire Department	Number
Chief	1
Asst. Chief	<del>{2}</del> 1
Captain	<del>[3]</del> As needed
Lieutenant	(as required)
Firefighters	(as required)
Recruits	(as required)

- (B) The Chief of Police, ~~[with the approval of the Board]~~, may designate [as] detectives to perform investigative duties as the Chief may assign, one or more police officers holding grades not higher than lieutenant.
- (C) The departmental Chiefs may, in an emergency, or during the temporary absence of any regular member of their respective departments, provisionally appoint temporary patrol officers or firefighters as necessary for the duration of the emergency or temporary absence. Temporary appointees must have an employment application on file in the Human Resources Department prior to employment. Temporary appointees must adhere to all policies and procedures as required by other non-temporary personnel. Appointees are paid at the minimum pay scale then in effect for recruits in the respective departments. Only persons who shall have been certified and trained pursuant to KRS 15.380 may be provisionally appointed as emergency police officers. Appointment of emergency firefighters shall first be made from members of the City Volunteer Fire Department who otherwise are qualified as firefighters hereunder.

## ARTICLE II. - SPECIFIC PROVISIONS

### **Sec. 90.25. - Probationary period.**

Members of the Fire Department shall serve a trial period as probationers of not less than 18 months from the date of their original probationary appointment before being commissioned as regular members of their department. Members of the Police Department shall serve a trial period as probationers for a period beginning at the date of their original appointment as recruit and ending not less than 12 months after successful completion of The Department of Criminal Justice Training before being commissioned as regular members of their department. During such trial period, recruits shall serve at the pleasure of and may be discharged without cause, recourse or hearing by the Board of Commissioners.

### **Sec. 90.26. – Oaths**

The Mayor, any judge or a notary public shall administer the oath prescribed by Kentucky Constitution § 228 and KRS 62.040 immediately upon the commission of the recruit, and the oath shall be subscribed to by the administering official in the official minutes of the Board of Commissioners.

### **Sec. 90.27. - Promotions.**

The Chief of the respective department will select for promotion from the list of those eligible based on the needs of the department at the time of the promotion. Promotions will be based upon the guidelines set forth by interdepartmental policies and procedures. The Chief of the respective department shall recommend appointments to the Mayor and Board of Commissioners. The Mayor and Board of Commissioners may in its discretion appoint the

eligible applicant or direct further examination. A probationary period of not less than six months or more than one year will exist for any new rank.

[ (A) ~~The Chiefs of the respective departments shall be chosen by the Board of Commissioners without examination under section 90.05 above, provided that all candidates must have at least ten years' experience in law enforcement or firefighting, as the case may be. All department officers shall be chosen by the Board of Commissioners without regard to residence, voting eligibility or prior employment by the city.~~

(B) ~~Except for advancement from probationary recruit to patrol officer or firefighter and to Chief as aforesaid, promotion in grades shall be made on the basis of competitive written examinations, oral interviews, performance and seniority in service.~~

(C) ~~The written examination shall be selected and administered by the Human Resources Director, Chief of the respective department and the City Manager to reveal the knowledge, judgment, expression and other qualifications of the applicant for the advance position sought, and shall be graded a maximum of 50 points. Each applicant must achieve a grade of at least 80 percent on the written examination to be considered for the advance position sought.~~

(D) ~~The oral interview shall be conducted by the Human Resources Director, Chief of the respective departments and the City Manager individually with each applicant, and may include interviews with other persons familiar with the applicant's work to reveal the performance, personality, appearance, leadership, initiative, attitude of service, cooperation, public relations, dependability, ability to perform the essential job-related functions and other qualifications deemed necessary for the advance position sought, and shall be graded a maximum of 25 points.~~

(E) ~~Performance shall be additionally judged on the basis of annual performance review by superior officers, and shall be graded a maximum of 20 points.~~

(F) ~~The allowance for seniority shall be computed on the basis of 1/24 of one point for each month of continuous service in the respective departments, with a maximum allowance of five points, provided that intervening military service and paid absence shall be credited on continuous service for purposes of this division.~~

(G) ~~The Human Resources Director, Chiefs of the respective departments and the City Manager shall combine the scores of each applicant under the foregoing divisions hereof and shall recommend to the Board of Commissioners promotion of the applicant attaining the highest total score to the subject vacancy.~~

(H) ~~In the Police Department, continuous service in a law enforcement position, including active military service and paid absences, prerequisite to promotion, shall be three years for sergeants, five years for lieutenants, and seven years for Assistant Chief.~~

(I) ~~In the Fire Department, continuous service in the Fire Department, including paid absences and active military service, prerequisite to promotion shall be five for captain and seven years for Assistant Chief.~~

(J) ~~The results of any promotional examinations given under this section shall be compiled by the Human Resources Director, Chiefs of the respective departments and the City Manager as a promotion list that shall remain in force for 24 months from the date of their recommendation hereunder. Vacancies occurring thereafter within the 24 months shall be filled therefrom; otherwise new promotional proceedings hereunder shall be instituted for each new vacancy.~~

(K) ~~Any employee that has received a written reprimand or unpaid suspension within 12 months prior to the promotional process is ineligible to participate.~~

~~(L) A probationary period of not less than six months or more than one year will exist for any new rank. During the probationary period, the Chief of the department and the City Manager may return the employee to his or her previous rank.]~~

**Sec. 90.28. - Duties, authority and jurisdiction of Police Department.**

- (A) Authority among members of the respective departments shall be determined by grades so that superior grades shall have control over and be responsible for lesser grades on their own shifts or at any time when on regular or special duty together, and lesser grades shall obey all lawful orders of their respective superiors.
- (B) It shall be the duty of the Chief of the Police Department to command and supervise the police force of the city; to see that the duties of police officers as defined by law and by this Code of Ordinances are properly performed; to assign the work of the department to its members; to prescribe and enforce reasonable rules and regulations to govern the department; and to be directly responsible to the City Manager for the conduct and operation of the department.
- (C) It shall be the duty of each commissioned member of the Police Department to acquire and have a general knowledge of federal and Kentucky constitutional rights, of Kentucky criminal law, including evidence and procedure, and of laws and regulations of the city that he or she may be called upon to recognize, protect and enforce. It shall further be each police officer's duty to use his or her best exertions to prevent the commission, within the police jurisdiction of the city, of offenses against the laws of Kentucky and the laws and regulations of the city; to observe and enforce all laws and regulations; to detect and arrest offenders; to observe the good order of the city; to secure all persons within the city from violence and property from damage; and at all times to represent the city in an honorable and worthy manner.
- (D) Members of the Police Department shall have the authority and jurisdiction throughout all territory within the city boundaries and, subject to the restrictions as may be imposed in writing by the Board, shall have the following extraterritorial jurisdiction:
  - (1) Within the Ohio River in Kentucky adjacent to the city boundary; and
  - (2) Anywhere in Mason County, Kentucky.

**Sec. 90.29. - Duties, authority and jurisdiction of Fire Department.**

- (A) It shall be the duty of the Chief of the Fire Department to command and supervise the Fire Department of the city; to see that its duties as defined by law and by this code are properly performed; to assign the work of the Department to its members; to prescribe and enforce reasonable rules and regulations to govern the Department; and to be directly responsible to the City Manager for the conduct and operation of the department.
- (B) It shall be the duty of each member of the Fire Department, under the direction of the Chief of the Fire Department, to enforce all laws of Kentucky and laws and regulations of the city pertaining to fires and fire prevention, and to perform other duties as are prescribed by laws and regulations of the city as may be conferred and imposed from time to time by law, and as may be delegated by the Chief of the Fire Department.
- (C) The Fire Department shall not exercise the jurisdiction conferred by KRS 95.830 beyond the territorial limits of the city, except in the following circumstances:



- (1) To fight fires at Kentucky schools, churches or government buildings and other building types at the discretion of the Fire Chief;
- (2) To honor mutual aid agreements approved by the Board of Commissioners with other units of local governments in Kentucky or Ohio.

**Sec. 90.30. - Hours of work.**

- (A) Members of the Police Department shall not be required to work more than eight hours per day, five days each week without advance written approval of the Chief of Police. ~~[A signed acknowledgment will be required of all members of the Police Department that work four 10-hour shifts.]~~ Members of the Police Department shall not be permitted to work more than 40 hours per week without advance written approval of the Chief of Police. The City Manager may review all overtime hours.
- (B) (1) Members of the Fire Department may work overtime only with advance written consent of the Fire Chief. The Fire Chief shall notify the City Manager of all overtime hours. For purposes hereof, overtime shall mean all hours for which firefighters are required to be compensated at one and one-half times their straight time rate under the Federal Fair Labor Standards Act, as amended, or KRS 337.285, as amended.  
  
(2) Pursuant to KRS 95.505, members of the Fire Department shall receive a period of 24 consecutive hours off duty in each period of 14 days, in addition to receiving 24-hours off duty in each period of 48 hours, except in cases of extraordinary emergency.

**Sec. 90.31. - Vacations.**

- (A) No more than three members of the Police department may be absent on annual leave at any one time, without consent of the Police Chief. Department members shall be entitled to select the time of their annual leave in accordance with their seniority or by agreement.
- (B) No more than one member of the Fire department per shift may be absent on annual leave at any one time, without consent of the Fire Chief. Department members shall be entitled to select the time of their annual leave in accordance with seniority, or by agreement.

**Sec. 90.32. - Uniforms.**

- (A) All members of the Police and Fire Departments shall wear uniforms for their respective departments as and when directed by the Chiefs thereof; shall keep their uniforms clean, neat and fitted while on duty when practicable; and shall display their own conforming badges and appropriate insignias designating their respective grades, subject to the approval of the Board of Commissioners.
- (B) Uniforms shall be provided for police officers and firefighters through a supervised clothing pool.

**Sec. 90.33. - Personal grooming and dress code.**

- (A) Hair.

- (1) *Male officers.* Hair shall be evenly trimmed and neatly styled at all times while on duty. Maximum depth of the hair outward from the top of the head shall be no more than one and one-half inches, provided that the hair shall be gradually tapered so that it does not protrude outward beyond the top (upper helix) of the ear, and so that it otherwise gives an overall even appearance. The hair shall at no point extend downward more than one-half inch below the hairline at the back of the neck, and in no event over the shirt collar in normal posture.
- (2) *Female officers.* The hair, when worn full length, shall not extend downward below the lower edge of the shirt collar. Longer hair may be worn, but must be "uplifted" to the top of the head while in uniform. When in the "uplifted" condition, no hair will extend downward below the lower edge of the shirt collar. The length of the hair shall not interfere with the wearing of the police hat.
- (B) *Sideburns.* Sideburns shall not extend below the bottom of the earlobe.
- (C) *Facial hair.* Mustaches may be worn with the pattern neatly trimmed. The growth shall not appear bushy. ~~[The ends may not be waxed or twisted.]~~ Mustaches must not interfere with breathing apparatus as required by the Fire Department.
- (D) *Beards.* Beards, goatees or other growth of hair below the lower lip, on the chin or lower jaw bone are prohibited unless approved by Department Head.
- (E) *Makeup.* Female officers may wear moderate facial makeup to attain the natural look. Heavy use of facial makeup is prohibited.
- (F) *Jewelry.* The wearing of jewelry shall be limited to one ring per hand. Female officers may wear small post earrings.
- (G) *Tattoos and piercings.* ~~[shall not be apparent or visible when the officer is in uniform]~~ Piercings shall not be apparent or visible when the officer is in uniform. Visible tattoos are permitted with the exception of on the hand, face, head and neck. An exception for the hands can be made by the Chief. Employees are prohibited from showing tattoos or body art that are prejudicial to good order, discipline and more or bring discredit to the City of Maysville. Examples of prohibited markings include those that are considered by the Chief to be sexist, racist, vulgar, anti-social, violent or discriminate against any protected class by virtue of words, symbols or pictures in the tattoo body art.
- (H) *Knowledge.* The Chiefs of the Fire and Police Departments shall make known to their respective personnel the provisions of this section, and the Chiefs shall be responsible for ascertaining and assuring individual compliance herewith. A copy of this section shall be posted conspicuously in the Police and Fire Departments.
- (I) All department personnel shall wear only the complete uniforms prescribed by the respective department Chiefs and shall wear and maintain the uniforms in a neat and clean condition and in good repair.
- (J) Noncompliance with the provisions of this section shall be deemed cause for disciplinary action in accordance with Kentucky law.

#### **Sec. 90.34. - Police authorized to carry concealed weapons.**

- (A) All members of the Police Department who carry deadly weapons on or about their persons in their regularly scheduled duties as police officers may carry concealed deadly weapons on or about their persons at all times within the Commonwealth of Kentucky.

- (B) Deadly weapons that may be carried by members of the Police Department within the Commonwealth of Kentucky are those usually carried by officers in performing their duties while on regularly scheduled shift of duty for the city.
- (C) This section is enacted for the express purpose of protecting the police officers of the city from prosecution under the provisions of KRS 527.020 when they may be outside the corporate limits of the city, and for no other purpose.

**Sec. 90.35. - Home fleet for police officers.**

Officers who reside in Mason County, Kentucky or any adjacent counties may drive their assigned vehicle to and from duty, for approved off-duty details, to and from department approved training, and to and from court appearances. Police officers who reside within the city limits, may when off duty drive their assigned vehicle while on personal errands. ~~Officers who reside outside of Mason County are prohibited from driving their assigned vehicle to their residence. City police officers who reside outside the city limits shall pay a fee for gasoline to the city which fee shall be set annually by the City Manager and the Chief of Police.~~

ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MAYSVILLE, KENTUCKY, this 23 day of April 2021.

---

Debra L. Cotterill, Mayor

Passed on 1 <sup>st</sup> reading	15 April 2021.
Adopted on 2 <sup>nd</sup> reading	22 April 2021.
Recorded by Clerk	23 April 2021.
Signed by Mayor	23 April 2021.
Published by Summary	28 April 2021.

ATTEST:

---

Lisa R. Dunbar, City Clerk

INDEX: Chapter 90

CERTIFICATE

I hereby certify that I am an attorney licensed to practice law in the Commonwealth of Kentucky, that I prepared the Summary above of the foregoing Ordinance of the City of Maysville, Kentucky, and that such Summary constitutes a general summary of the essential provisions of said Ordinance, reference to the full text of which Ordinance is hereby made for a complete statement of its provisions and terms.

---

W. Kelly Caudill  
City Attorney  
Royse, Zweigart, Kirk, Brammer & Caudill  
215 Stanley Reed Court  
Maysville, Kentucky 41056  
606 564-4012