

ORDINANCE 2019-1790

AN ORDINANCE AMENDING CITY OF MURRAY CODE OF ORDINANCES CHAPTER 33 POLICE AND FIRE DEPARTMENTS, SPECIFICALLY §33.01, §33.02, §33.10, §33.11, §33.12, §33.13, §33.20, §33.21, §33.22, §33.23, §33.24, AND §33.25, TO CLARIFY TERMS AND TO ENSURE COMPLIANCE WITH OTHER ORDINANCES.

WHEREAS, the City of Murray desires to amend Chapter 33, POLICE AND FIRE DEPARTMENTS, in order to amend paragraphs §33.01: PERSONNEL; §33.02: COUNTY EMPLOYEES RETIREMENT SYSTEM; §33.10: TRAINING AND EDUCATION; §33.11: CONCEALED WEAPONS AND MARKSMANSHIP QUALIFICATIONS; §33.12: RULES AND REGULATIONS OF THE POLICE DEPARTMENT; §33.13: OATH AND BOND OF MEMBERS OF POLICE FORCE; §33.20: QUALIFICATIONS AND EDUCATION FOR FIRE DEPARTMENT PERSONNEL; §33.21 PROMOTIONS; §33.22; RULES AND REGULATIONS OF FIRE DEPARTMENT; §33.23: ESTABLISHMENT OF CITATION OFFICERS; §33.24: QUALIFICATIONS; AND §33.25 AUTHORITY; in order to clarify terms and ensure compliance with other ordinances; and

WHEREAS, the Murray City Council has reviewed and discussed the following proposed changes to Chapter 33 of the City Of Murray Code Of Ordinances and believe that the proposed changes are reasonable and necessary.

BE IT ORDAINED by the City Council of the City of Murray, as follows:

AMENDMENT: ADDITIONS, ASSERTIONS & CHANGES:

City of Murray Code Of Ordinances, Chapter 33 is amended as follows:

33.1 Personnel

33.2 County Employees Retirement System

Police Department

33.10 Training, Education and Qualifications for personnel

33.11 [Promotion]-Concealed Weapons and Marksmanship Qualifications

33.12 Rules and regulations of the Police Department

33.13 Oath of Members of Police Force

Fire Department

33.20 Qualifications and education for Fire Department personnel

33.21 Promotions

33.22 Rules and regulations of the Fire Department

Citation Officers

33.23 Establishment of citation officers

33.24 Qualifications

33.25 Authority

§ 33.01 PERSONNEL.

(A) There are hereby established a ~~[p]~~ Police ~~[d]~~ Department and a ~~[f]~~ Fire ~~[d]~~ Department for the ~~[e]~~ City of Murray, Kentucky. Police officers and firefighters shall be appointed and removed solely at the pleasure of the Mayor except as otherwise provided by statute, ordinance or contract (KRS 83A.130). The Police Department shall be supervised by the Chief of Police and the Fire Department shall be supervised by the Fire Chief. The Chief of Police and the Fire Chief shall be responsible to the City Administrator, Mayor and City Council for the efficient operation and management of their respective departments.

(B) The law enforcement personnel of the ~~[e]~~ City shall consist of a Chief of Police and such additional law enforcement and other personnel ~~[as appropriated as]~~ allowed by the approved classification plan. The Chief of Police specifically provided for herein shall be appointed by the Mayor with approval of the City Council pursuant to KRS 83A.080.

(C) Chief of Police duties and authority of this office are hereby established as those contained or set forth in ~~[the Kentucky Revised Statutes]~~ KRS Chapter 95. The Chief of ~~[the]~~ Police ~~[Department]~~ shall be the Director of the Department and all employees shall be subject to his or her supervision and control. The Chief of Police shall be responsible for the plan ~~[s]~~ ning, organization, direction, coordination, and evaluation~~[s]~~ of all activities and programs of the ~~[d]~~ Department as well as the distribution of resources, development of budget and policies and procedures as well as general management of the Police Department. ~~[of.]~~ The Chief of ~~[the]~~ Police ~~[Department]~~ shall perform or cause to be performed all duties associated with enforcing all ordinances related to traffic and crimes as well as all other actions and duties authorized by law, ordinance, regulation, or as may be included in the job description.

(D) The oath of office to be executed by the Chief of Police shall be that as set forth in Section 228 of the Constitution of the Commonwealth of Kentucky.

(E) The Fire Department personnel of the ~~[e]~~ City shall consist of a Fire Chief and such additional fire fighters and other personnel ~~[as appropriated]~~ allowed by the approved classification plan. The Fire Chief specifically provided for herein shall be appointed by the Mayor with approval of the City Council pursuant to KRS 83A.080.

(F) Fire Chief duties and authority of this office are hereby established as those contained or set forth in ~~[the Kentucky Revised Statutes]~~ KRS Chapter 95. The Chief of the Fire Department shall be the ~~[d]~~ Director of the ~~[d]~~ Department and all employees shall be subject to ~~[their]~~ his or her supervision and control. The Fire Chief shall be responsible for the plan ~~[s]~~ ning, organization, direction, coordination, and evaluations of all activities and programs of the ~~[d]~~ Department as well as the distribution of resources, development of budget and policies and procedures as well as general management of the Fire Department. The Chief of the Fire Department shall perform or cause to be performed all other duties associated with enforcing all ordinances related to firefighting, fire protection and fire prevention as well as other actions authorized by law, ordinance, regulation, or as may be included in the job description.

(G) The oath of office to be executed by the Fire Chief shall be that as set forth in Section 228 of the Constitution of the Commonwealth of Kentucky.

(H) All employees of the Police and Fire Departments shall be subject to all personnel rules and regulations of the City of Murray adopted by Murray City Ordinance, Resolution or Municipal Order as well as to departmental rules and regulations contained in the respective Police Department or Fire Department Operations Manuals, Guidelines, or Policies and Procedures.

(I) Members of the Police and Fire Departments shall be disciplined as set forth in KRS.95.450. Complaints against police officers shall follow the process set forth in KRS 15.520, which provides for administrative due process rights in certain disciplinary matters concerning officers of the City of Murray since the City participates in the Kentucky Law Enforcement Foundation Program fund.

(J)The City of Murray follows KRS 15.391 and accompanying regulations regarding the termination and/or resignation of police officers from employment with the City.

(K)All employees of the Police and Fire Departments are subject to call to duty in case of an emergency. Such call shall be made by the respective Chiefs, ranking officers of the appropriate department who are on duty or by the City Administrator.

(Ord. 291, passed 12-21-56; Am. Ord. 97-1100, passed 4-10-97; Am. Ord. 2010-1509, passed 8-26-10)

§ 33.02 COUNTY EMPLOYEES RETIREMENT SYSTEM.

(A) The pension plan established for its employees under KRS 95.621 through 95.629 is hereby frozen effective July 31, 1988, to participation by those existing employees who are then participating therein and who filed with the [e]City on November 1, 1988, a written election to continue participating therein in lieu of participating in the County Employees Retirement System (CERS).

(B) The [e]City hereby elects to participate in CERS effective August 1, 1988, and authorizes the Mayor to execute the appropriate instruments to effectuate such election.

(C) All employees now participating in the existing [e]City pension plan are hereby authorized to terminate such participation and transfer to CERS.

(D) The [e]City shall continue to fund and manage its existing pension plan for the benefit of any employees electing to continue therein and those who are entitled to benefits in existing pension plan.

(E) Employees hired after August 1, 1988, who are otherwise eligible to participate in the [e]City pension plan, shall participate only in CERS.

(F) The [e]City hereby adopts the terms and provisions of the CERS under KRS 78.510 through 78.852, elects the alternate participation plan under KRS 78.530 (3), and declares its intention to enter into an agreement with the Board of Trustees for the [~~mortization~~]amortization of the cost of such prior service credit over a 15-year period commencing on or about August 1, 1988.

(G) The individual employee accounts in the existing [e]City pension plan shall be transferred to the CERS for credit to the respective employee's individual account in CERS, pursuant to KRS 78.531 (1) and (2), upon the election of such employees to participate in CERS.

~~[(H) The City Clerk is hereby directed to certify to the Board of Trustees the all employees deemed to be working in a hazardous position for purposes of KRS 61.592, and all police officers and firefighters employed after August 1, 1988, shall, if otherwise qualified, be eligible for CERS hazardous position coverage.]~~

(Ord. 88-874, passed 7-28-88)

POLICE DEPARTMENT

§ 33.10 TRAINING, EDUCATION AND QUALIFICATIONS FOR PERSONNEL.

(A) All persons hereafter employed by the [e]City for services in the Police Department shall [be able to read, write, and understand the English language; be persons of sobriety and integrity, and be orderly,

law abiding citizens] meet the requirements for police department members in cities of the home rule class as stated in KRS 95.440.

(B) All persons hereafter employed by the ~~[e]City~~ for services in the Police Department ~~[shall be at least (25) twenty five] [years of age.]~~ shall attain certification status within the statutorily specified period of time. The qualifications for certification are set forth in KRS 15.380, KRS 15.382 KRS 15.386 and KRS 15.404.

~~[(C) No patrolman or sergeant as classified under the terms of Ordinances 322 and 347 shall hereafter be employed or reemployed after such person has reached the age of 65. This section shall not apply to the Chief of Police who may be reemployed after the age of 65.]~~

~~[(D) No person shall hereafter be employed as a patrolman or sergeant after such individual has reached the age of 45 unless such person was employed as a patrolman or sergeant in the Police Department at the time such individual reached age 45 or unless such person's age does not exceed 45 as determined in division (E) hereof.]~~ All police officers with active certification status shall successfully complete forty (40) hours of annual in-service training that is certified or recognized by the Kentucky Law Enforcement Council and appropriate to the officer's rank and responsibility.

~~[(E) In determining the age of 45 as herein used, the actual age of such individual may be reduced by the number of years of prior and uninterrupted service, if any, on the police force. But in no event shall any person be employed as a patrolman or sergeant after the December 31 following the day such person reaches the age of 65, as provided in division (C) hereof.]~~

~~[(F) No person shall hereafter be employed or reemployed for services in the Police Department unless he has a valid driver's license. Failure to maintain a valid state driver's license shall constitute grounds for dismissal]~~

~~[(G) No person shall be originally employed as a member of the Police Department unless he has a certificate of graduation from an accredited high school or a certificate that he has successfully passed a standard GED test]~~

~~[(H)E]~~ All applicants for employment by the ~~[e]City~~ for service in the Police Department must complete an application consistent with the hiring process within the City of Murray Personnel Policies and Procedures. [be in writing on forms to be furnished by the city. Each of the applications must be accompanied by a health certificate from a medical doctor stating that the applicant is physically fit to perform the duties of a policeman.] [Such application shall remain on file for a minimum of six months from and after the date of filing thereof.] [Thereafter, the application shall be considered null and void.

~~[(H)F]~~ All law enforcement officers [hired after the adoption of Ordinance 1284] not certified at the time of employment or who are under an employment agreement with another law enforcement agency at the time of hire shall be required to enter into an employment agreement with the ~~[e]City~~. A copy of said employment agreement shall be [is attached to Ordinance 1284 and made a part hereof as if written out in full.] maintained in the personnel file of each police officer.

(G) Police Department employees are subject to promotions as are other employees within the City. The Police Department works with the Department of Human Resources to establish criteria for promotions and to facilitate the promotions process. Eligibility criteria for promotions is located on the individual job descriptions posted for each position.

(Ord. 383, passed 5-18-62; Am. Ord. 2002-1284, passed 8-22-02; Am. Ord. 2002-1285, passed 9-12-02)

 § 33.II CONCEALED WEAPONS AND MARKSMANSHIP QUALIFICATIONS.

(A) All members of the Police Department that carry deadly weapons on or about their persons in their regularly scheduled duties as policemen for the ~~[e]City~~, may carry concealed deadly weapons on or about their persons at all times, including off-duty hours, at any location within the state where an on-duty peace officer is permitted to carry firearms. In addition, retired peace officers certified under KRS 237.138 to KRS 237.142 to carry concealed firearms, may carry concealed firearms at any location within the state where an on-duty peace officer is permitted to carry firearms.

(B) Deadly weapons that may be carried by members of the Police Department within the state are those weapons that are usually carried by such officers in performing their duties while on regularly scheduled shift of duty for the ~~[e]City~~. Any Murray Police Officer who chooses to carry a concealed weapon that is not Department issue, may do so as long as he or she qualifies annually with the weapon with a Murray Police Department firearms instructor and the caliber and model of the weapon are approved by the Chief of Police or his or her designee.

~~[(C) This section is herewith enacted for the express purpose of protecting the policemen of the City from prosecution when they may be outside the corporate limits of the City and for no other purpose.]~~

~~[(D) E] Each member of the Police Department shall annually meet the marksmanship requirement for a retired peace officer in order to maintain his or her certification as a peace officer. KRS 237.140. The City may require that the certified peace officers employed by the City meet a marksmanship qualification requirement that is in excess of that specified in KRS 237.140. If the officer fails to meet the increased marksmanship qualification required of the Police Department, the certification status shall not be affected but the officer may be subjected to discipline by the Department, including suspension or dismissal of the officer from the Department.~~

(Ord. 592, passed 3-14-74)

§ 33.12 RULES AND REGULATIONS OF THE POLICE DEPARTMENT

~~[The rules and regulations for the conduct of personnel of the Police Department and the Department itself are adopted by reference and made a part hereof as if fully set out at length herein.]~~ In addition to the disciplinary provisions of KRS Chapter 95 and the Police Department Rules and Regulations, members of the Police Department shall be subject to all personnel rules and regulations adopted by the Murray City Ordinances, Resolutions or Municipal Orders. All members of the Police Department shall also follow the City of Murray Personnel Policies and Procedures, Ethics Policy, and Drug and Alcohol Free Workplace Policy.

(Ord. 544, passed 9-23-71)

§33.13 OATH OF MEMBERS OF POLICE FORCE

Each member of the police force, prior to beginning the discharge of his or her duties, shall take an oath to faithfully discharge the duties of his or her office. The oath shall be subscribed by the person taking it and filed in the office of City Clerk. KRS 95.490 (1)

FIRE DEPARTMENT

§ 33.20 QUALIFICATIONS AND EDUCATION FOR FIRE DEPARTMENT PERSONNEL.

~~(A) There is hereby established a Fire Department for the [c]City.~~

~~[(B)](A) All individuals hereafter employed or re-employed as members of the Fire Department, [as required by] shall meet the requirements as stated in KRS 95.440. [shall be able to read, write, and~~

understand the English language; be persons of sobriety and integrity [and be orderly, law-abiding citizens.]

~~[(C)]~~(B) No person shall be eligible for employment as a member of the Fire Department unless he is at least eighteen (18) years of age. ~~[and less than 35 years of age except as provided in divisions (D) and (G) hereof.]~~ No person convicted of a felony is eligible for appointment as a member of the Fire Department.

~~[(D)]~~ Any person less than 45 years of age, who is not an employee of the Fire Department, may reduce his actual age by the number of years of prior and uninterrupted service with the Fire Department. If his age, after application of such formula, is less than 35 years, he shall not be disqualified for such employment. In no event shall such formula for determining whether or not an applicant is under 35 years of age as defined herein, be applicable after such person has reached the actual age of 45 years. This formula is to apply to those individuals who have been employed by the Fire Department and have subsequently ceased such employment, it is not applicable to employees subject to re-employment from year to year whose service is uninterrupted.]

~~[(E)]~~ In no event shall any individual remain a member of the Fire Department after January 1 following the date such employee reaches the age of 65 years.]

~~[(F)]~~(C) No person shall be employed or re-employed ~~[to]~~ by the Fire Department unless he or she has a valid ~~[state]~~ driver's license. Failure to maintain a valid ~~[state]~~ driver's license ~~[shall]~~ may constitute grounds for suspension or dismissal.

~~[(G)]~~ Notwithstanding the language used in divisions (C) and (D) employees of the Fire Department with continuous and uninterrupted service shall not be disqualified for re-employment because of age restrictions until the January 1 following the date they reach the age of 65 years.]

~~[(H)]~~(D) No person shall hereafter be originally appointed as a member of the Fire Department unless he or she is a high school graduate from a program meeting the requirements of the Kentucky Department of Education or possesses a High School Equivalency Diploma. ~~[has a certificate of graduation from an accredited high school or a certificate that he has successfully passed a standard G.E.D. test or a test of equal magnitude.]~~

(E) Each individual employed as a professional firefighter within the Fire Department must complete the basic minimum courses of training as required by the Kentucky State Fire Commission qualifications for professional fire fighters and fire protection personnel as well as required annual continuing education courses and training.

(Ord. 547, passed 12-23-71; Am. Ord. 2002-1285, passed 9-12-02; Am. Ord. 2010-1520, passed 10-28-10)

§ 33.21 PROMOTIONS.

Fire Department employees are subject to promotions as are other employees within the City. The Fire Department works with the Department of Human Resources to establish criteria for promotions and to facilitate the promotions process. Eligibility criteria for promotions are located on the individual job descriptions posted for each position.

~~[(A)]~~ Promotional exam overview. All eligible applicants for a promotional exam with the city Fire Department shall take part in a formal testing process. ~~The formal testing process may include written tests, on-scene practical skill simulation assessments, human resource assessments, and oral interviews dependent upon the rank being tested. Additional formal testing methods may be included at the recommendation of the Fire Chief and approval of the Human Resources Director and Mayor.]~~

~~[(B)]~~ Promotional exam eligibility.]

~~—[(1) Fire Lieutenant exam eligibility. In order to be eligible to sit for the Fire Lieutenant Exam, an applicant shall meet one of the requirements listed below:]~~

~~—[(a) Five or more continuous years service as a firefighter for the city Fire Department; or]~~

~~—[(b) Four continuous years service as a firefighter for the Fire Department and possess an Associate's, Bachelor's, or Master's Degree in Fire Science from an accredited educational institution.]~~

~~—[(c) If, in the Fire Chief's discretion there are not enough personnel that meet the eligibility requirements as outlined above, the Fire Chief will fill any vacancies on a temporary basis until more eligible employee(s) become available.]~~

~~—[(2) Fire Captain exam eligibility. In order to be eligible to sit for the Fire Captain Exam, an applicant shall meet one of the requirements listed below:]~~

~~—[(a) Seven or more continuous years service as a firefighter for the Fire Department with at least two years of said service being in the rank of Lieutenant; or]~~

~~—[(b) Five or more continuous years of service as a firefighter for the Fire Department with at least one year of said service being in the rank of Lieutenant and possess an Associate's, Bachelor's, or Master's Degree in Fire Science from an accredited educational institution.]~~

~~—[(c) If in the Fire Chief's discretion there are not enough personnel that meet the eligibility requirements as outlined above, the Fire Chief will fill any vacancies on a temporary basis until more eligible employee(s) become available.]~~

~~—[(3) Fire assistant chief exam eligibility. In order to be eligible to sit for the Fire Assistant Chief Exam, an applicant shall meet one of the requirements listed below:]~~

~~—[(a) Nine or more continuous years of service as a firefighter for the Fire Department with at least one year of said service being in the rank of Captain; or]~~

~~—[(b) Seven or more continuous years of service as a firefighter for the Fire Department with at least one year of said service being in the rank of Captain and possess an Associate's, Bachelor's, or Master's Degree in Fire Science from an accredited educational institution.]~~

~~[(c) If, in the Fire Chief's discretion there are not enough personnel that meet the eligibility requirements as outlined above, the Fire Chief will fill any vacancies on a temporary basis until more eligible employee(s) become available.]~~

(Ord. 625, passed 3-11-76; Am. Ord. 2011-1538, passed 5-12-11)

§ 33.22 RULES AND REGULATIONS OF THE FIRE DEPARTMENT.

~~[The rules and regulations for the conduct and actions of the personnel are adopted by reference and made a part hereof as if fully set out at length herein.]~~ In addition to the disciplinary provisions of KRS Chapter 95, members of the Fire Department shall be subjected to all personnel rules and regulations adopted by Murray City Ordinances, Resolutions and Municipal Orders. All members of the Fire Department shall also follow the City of Murray Personnel Policies and Procedures, Ethics Policy, and Drug and Alcohol Free Workplace Policy as well as any rules, regulations or policies established by the Fire Department.

(Ord. 584, passed 9-13-73)

§ 33.23 ESTABLISHMENT OF CITATION OFFICERS.

The City Council upon the recommendation of the Mayor, may authorize the employment of citation officers as needed. The individuals who serve in the following positions are empowered to act in the position of Citation Officer with the authority and power as provided in KRS 83A.087.

- (A) Police Department Compliance Officer
- (B) Fire Marshal
- (C) Fire Inspector

(Ord. 93-997, passed 3-11-93)

 **§ 33.24 QUALIFICATIONS OF CITATION OFFICERS.**

Citation officers shall have the qualifications prescribed by the job description upon appointment. Each Citation Officer shall be duly certified or otherwise qualified in the position which he or she holds or shall meet such certification qualifications within one year.

(Ord. 93-997, passed 3-11-93)

 **§ 33.25 AUTHORITY OF CITATION OFFICERS.**

Each individual who is authorized to act as Citation Officer shall have the ~~[power]~~ power and authority to issue citations to any person who violates or fails to comply with any ordinance of the ~~[e]City~~ for which such violation or failure to comply is subject to a penalty, provided that such ordinance directly relates to the duties of such individual. No Citation Officer shall be authorized to issue any citation for any moving vehicle offense or any offense which constitutes a violation of the Kentucky Penal Code. No citation shall be issued by any Citation Officer unless probable cause exists that a person has violated or failed to comply with any ~~[e]City [o]Ordinance.~~ Following the issuance of a citation, the issuing officer shall seek prosecution upon the citation with the appropriate state court tribunal, appeals board or local Code Enforcement Board authorized by the City's Code of Ordinances.

(Ord. 93-997, passed 3-11-93)

Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this Ordinance; nor shall any just or legal right or remedy of any character be lost impaired or affected by this Ordinance.

All other sections and provisions of the Ordinances for the City of Murray, not specifically amended herein, shall remain in full force and effect and shall not be considered amended and shall be incorporated by reference as if fully stated herein.

BOB ROGERS, MAYOR

ATTEST:

Dannetta Clayton, CITY CLERK

Introduced by the City Council on _____, 2019.

Adopted by the City Council on _____, 2019.

Published in the Murray Ledger and Times on _____, 2019.