

ORDINANCE NO. A-320

AN ORDINANCE ESTABLISHING A BOARD OF CIVIL SERVICE COMMISSIONERS FOR THE POLICE, FIRE AND PUBLIC WORKS DEPARTMENTS, AND FOR THE BUILDING AND PLUMBING INSPECTOR OF THE CITY OF CONWAY, ARKANSAS; NAMING FIVE UPRIGHT AND INTELLIGENT CITIZENS AS MEMBERS THEREOF; SETTING FORTH THE DUTIES AND RESPONSIBILITIES OF SUCH MEMBERS, THE PROCEDURE OF SAID BOARD, AND THE POWERS THEREOF; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

SECTION 1. There is hereby created in the City of Conway, Arkansas a Board of Civil Service Commissioners for the Fire Department, the Police Department, the Department of Public Works and the Building and Plumbing Inspector. The following named five upright and intelligent citizens of Conway, Arkansas are hereby appointed and shall constitute said Board of Civil Service Commissioners:

W. T. Browning, who shall hold office until the first Monday in April of the second year after his appointment;

~~Ernest~~ Ernest Halter<sup>5</sup>, who shall hold office until the first Monday in April of the fourth year after his appointment;

Joe H. Reynolds, who shall hold office until the first Monday in April of the sixth year after his appointment;

S. T. Smith, Jr., who shall hold office until the first Monday in April of the eighth year after his appointment;

William J. Farris, who shall hold office until the first Monday in April of the tenth year after his appointment.

The chairman of the commission for each biannual period shall be the member whose term of office first expires. No person on said Commission shall hold or be a candidate for any political office under any national, state, county or municipal government, or be connected in any way in any official capacity with any political party or organization of a political nature. Three members of said Board shall constitute a quorum in any transaction. The members of said Board shall take the oath of office required by the law of the State of Arkansas.

SECTION 2. Should a vacancy occur on said Board by reason of death, resignation, or expiration of the term of office, or in any other manner, such vacancy shall be filled by the City Council of

said City and in event a vacancy shall occur during the term of office of any commissioner, except by the normal expiration of his term, his successor shall be appointed to fill the unexpired term caused by such vacancy, and at the normal expiration of said term the City Council shall fill said vacancy by the appointment of a commissioner for a term of six (6) years.

SECTION 3. The City Council by a two-thirds vote may remove any member of said Civil Service Commission during their term of office for cause, and in the event of the removal of one or more of said commissioners, the City Council shall fill the vacancy created by such removal.

SECTION 4. The Board of Civil Service Commissioners shall elect one of its members as secretary, who shall keep the books and records of said Board, and shall conduct the correspondence of said Board, and shall report the evidence in all trials, or cause such evidence to be reported, for which a reasonable expense shall be paid by the City, and said secretary shall act as clerk when the Board is conducting a trial court, and any other duties in connection with the affairs of said Board that may be ordered by it. The City Attorney shall act as attorney for the Civil Service Commission in all trials and other legal transactions.

SECTION 5. The Civil Service Commissioners named as provided herein shall meet and organize, and the City Council shall provide a suitable place for such Board of Civil Service Commissioners to hold meetings, and shall allow all reasonable supplies and use of public buildings for holding examinations by such Board. The chairman, as hereinabove selected, shall preside over all meetings of said Board and be its executive officer, and shall vote on questions that may come before the Board only in case of a tie. In the absence of the Chairman the Board shall elect one of their number to act instead of the Chairman, and such member so elected shall be clothed with all the powers, rights and duties of the said Chairman during the absence of the Chairman.

SECTION 6. The Board of Civil Service Commissioners herein provided shall prescribe, amend and enforce rules and regulations

governing the departments and employees hereinabove enumerated and said rules and regulations shall have the same force and effect of law. The Board shall keep a record of its examinations and shall investigate the enforcement and effect of this ordinance and the rules and regulations as provided for herein.

These rules shall provide:

1. For the qualifications of each applicant for appointment to any position on the Police Department, the Fire Department, or the Department of Public Works (sometimes also known as the "Street Department"), and the qualifications of each applicant for appointment to the position of Building and Plumbing Inspector; provided, however, that no person shall be eligible for appointment to any position on the Fire Department who has not arrived at the age of 21 years or who is over 31 years of age; and no person shall be eligible for appointment on the Police Department who has not arrived at the age of 21 years or who is over the age of 45 years; and no person shall be eligible for appointment on the Department of Public Works who has not arrived at the age of 21 years or who is over the age of 60 years; and no person shall be eligible for appointment as Building and Plumbing Inspector who has not arrived at the age of 21 years or who is over the age of 60 years; Provided, further, that this age limit shall not apply to any person employed on the Police Department, the Fire Department, the Department of Public Works, or as Building and Plumbing Inspector at the time of the passage of this ordinance.

2. For open competitive examinations to test the relative fitness of applicants for such positions.

3. For public advertisement of all examination by publication of notice in some newspaper having a bona fide circulation in said City and by posting notice at the City Hall at least ten (10) days before the date of said examinations. Said examinations shall be held on the first Monday in April and the first Monday in October, and more often if necessary under the rules and regulations as may be prescribed by the Board of Civil Service Commissioners.

4. For the creation of eligible lists for each rank of employment in each of said departments and for the position of Building and Plumbing Inspector, in which lists shall be entered the names of the successful candidates in the order of their standing in the examination. No person shall be eligible for examination for advancement from a lower to a higher rank until he shall have served at least one year in the lower rank except in case of emergency, which emergency shall be decided by the Board of Commissioners. All lists for appointments or promotions as certified by the Board of Civil Service Commissioners shall be and remain in force and effect for the period of one year from the date thereof and at the expiration of said period all right of priority under said lists shall cease.

5. For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the Board in regard to age, sex, physical condition or who has been guilty of a felony, or who has attempted fraud or deception in connection with the examination. All applicants for appointment and all applicants for reinstatement shall undergo a suitable physical examination, said examination to be conducted in the manner and form as now provided by law, provided, that if no provisions have been made by existing laws for such examination, then the Board of Civil Service Commissioners may adopt proper rules and regulations to carry this provision into effect.

6. For the appointment or promotion of the one standing highest on the eligible list for that rank of service.

7. For a period of probation of not to exceed six (6) months before any appointment or promotion is complete, during which period the probationer may be discharged, in case of an appointment, or reduced, in case of promotion, by the chief or superintendent of the respective department in which employed.

8. For temporary employees without examination with the consent of the Commission, in cases of emergency, and pending appointment from the eligible list. But no temporary appointment shall continue for a greater period than sixty (60) days nor shall successive temporary appointment be allowed except in times of grave danger of which the Commission shall decide.

9. For promotion based upon competitive examinations of efficiency, character and conduct, Lists shall be created for each rank of service and promotions made therefrom in the same manner as provided for original appointment. An advancement in rank or increase in salary beyond the limits fixed for the grade by the rules of said Commission shall constitute a promotion.

10. For suspension for not longer than thirty (30) days, and for leave of absence.

11. For discharge or reduction in rank or compensation after promotion or appointment is complete, only after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction in writing.

The person so discharged or reduced shall have the right within ten (10) days from the date of notice of discharge or reduction to reply in writing and should said person deny the truth of such reasons upon which such discharge or reduction is predicated and shall demand a trial, said Commission shall grant a trial as hereinafter provided. The reasons and the reply shall constitute a part of said trial and be filed with the record.

12. For the adoption and amendment of rules after public notice and hearing.

The Commission shall adopt such rules not inconsistent with the law for the necessary enforcement of the Civil Service Ordinance.

SECTION 7. All examinations provided for herein shall be fair and impartial, and such as to test the qualifications of the applicant for the particular position to be filled. Provided, however, in the case of a vacancy in a position requiring peculiar or exceptional qualifications of a scientific, professional or expert character, upon satisfactory evidence that competition is impracticable and the position can best be filled by the selection of some person designated and of recognized attainment, the Board of Commissioners may by a majority vote suspend the competition, in such case, but such suspension shall not be general in its application, and each case must be handled on its own merits.

SECTION 8. No officer, private or other employees of the Fire Department, the Police Department, or the Department of Public Works and in the employ of such department at the time of the passage of this ordinance, nor the Building and Plumbing Inspector employed by the City at the time of the passage of this ordinance, shall be subject to examination, except for promotion or advancement, but shall retain their present standing subject to the other provisions of this ordinance, and subject to the right to determine physical and mental fitness to continue in the employment.

SECTION 9. The secretary of said Civil Service Commission shall file with the Treasurer of the City of Conway a certificate of those entitled to compensation from the City under this ordinance. No compensation shall be allowed to any member of the respective departments or any of the employees of said City hereinabove enumerated unless their names shall be so certified by the Secretary of the Commission.

Section 10. In the event that it shall become necessary to reduce the personnel of any department affected hereby, such reduction shall be done from the lowest rank, seniority having priority.

SECTION 11. All employees of the City affected by this ordinance shall be governed by rules and regulations set out by the chief or superintendent of their respective departments after such rules and regulations have been adopted by the City Council of the City of Conway, Arkansas.

SECTION 12. No person in any department affected by this ordinance shall be transferred from one department to another.

SECTION 13. No Civil Service employees shall be discharged or compensation or reduced in rank/without being notified thereof in writing and of the cause therefor. Within ten (10) days after such notice in writing is served upon such civil service employee he may, if he so desires, request a trial before the Civil Service Commission on the charges alleged as the ground for the action, and in the event a request for trial is made the Commission shall fix the date for said trial not more than fifteen (15) days after request therefor is made; provided, however, that if a request for trial is not made within ten (10) days from the date of service of notice of discharge

the discharge shall become final and no trial shall be granted thereafter. In the event of a trial the person to be tried shall be notified of the date and place of said trial at least ten (10) days prior to the date thereof, and shall have compulsory process to have witnesses present at such trial.

SECTION 14. The Chairman of the Board of Civil Service Commissioners shall preside at all trials and shall determine and decide all questions relative to pleadings and the admissibility of evidence. The decision of the Commission shall be by majority vote of the members thereof. The finding of the Commission shall be subject to review by the Circuit ~~COURT~~<sup>COURT</sup> of Faulkner County, Arkansas. Said appeal shall be filed in the office of the Clerk of said Court within thirty (30) days from the date of the rendition of the decision by the Commission. Such trials before the Court shall be upon the transcript from the Secretary of the Board of Civil Service Commissioners, which transcript shall contain all of the evidence introduced before said Board, and any such other evidence that the parties thereto desire to introduce, provided same is legal, relevant, and competent. In the event that it is finally determined that there was a wrongful suspension, reduction in rank or discharge of any Civil Service employee such employee shall be entitled to judgment against the City for whatever loss he may have sustained by reason of his suspension, discharge or demotion, taking into consideration any remuneration which such employee may have received from other sources pending the final determination of his case.

SECTION 15. The City Council shall from time to time fix the number of employees and the salaries to be drawn by each rank in the respective departments covered herein, and shall from time to time fix the salary of the Building and Plumbing Inspector of the City.

SECTION 16. All laws or parts of laws in conflict herewith are hereby repealed.

SECTION 17. It is hereby declared that should any section, paragraph, sentence, clause or word of this ordinance be declared for any reason invalid, it is the intent of the City Council of the

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City of Conway, Arkansas, that it would have passed all other portions of this ordinance independent of the elimination of any provision herefrom as may be declared invalid.

SECTION 18. Due to the fact that great confusion exists because the City of Conway, Arkansas does not have a Civil Service Commission, an emergency is hereby declared to exist, and this ordinance being necessary for the public peace, health and safety shall be in full force and effect from and after its passage and publication.

PASSED: This 7th day of September, 1957.

APPROVED: *M. M. Jettig*  
Mayor

ATTEST: *Walter D. Conway*  
City Clerk

*Check Note - the Emergency Clause failed to pass.*