

Ordinance #24-0329
2024 Ordinance Book, Page 64

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE III, ENTITLED
“BOARDS AND COMMISSIONS” OF THE WINSTON-SALEM CITY CODE
CREATING THE “CIVIL SERVICE BOARD OF
THE CITY OF WINSTON-SALEM”

BE IT ORDAINED by the Mayor and City Council of the City of Winston-Salem as follows:

Section 1. Division 18 entitled “Civil Service Board of the City of Winston-Salem” is hereby created to read as follow:

“Division 18. Civil Service Board of the City of Winston-Salem.

Section 2-311. Definitions.

Act shall mean the act passed by the North Carolina General Assembly in 2023, being Session Law 2023-112, Senate Bill 9, and being Chapter 232 of the Private Laws of 1927, as now and hereafter amended.

Budget shall mean, for purposes of this ordinance, the annual amount appropriated by the City Council of the City of Winston-Salem for the operation of the civil service board.

Chief of Fire shall mean the Fire Chief of the City of Winston-Salem or the Fire Chief’s designee.

Chief of Police shall mean the Police Chief of the City of Winston-Salem or the Police Chief’s designee.

Civil Service Board shall mean the civil service board of the City of Winston-Salem.

City shall mean the City of Winston-Salem.

City Attorney shall mean the City Attorney of the City of Winston-Salem or the City Attorney’s designee.

City Council shall mean the City Council of the City of Winston-Salem.

City Hall shall mean the main office building for Winston-Salem city government located at 101 N. Main Street or any other location should the main office building be moved or constructed elsewhere later.

City Manager shall mean the City Manager of the City of Winston-Salem or the City Manager’s designee.

City resident shall mean a person who resides within the corporate limits of the city of Winston-Salem, and who is a qualified voter, as determined by the North Carolina Constitution and standards utilized by the Forsyth County Board of Election for determining eligibility to vote in a municipal election.

Classified service of the city shall mean all officers and employees of the City Police Department and City Fire Department, except the Chief of Police, the Deputy Chief of Police, Assistant Chiefs of Police, the Fire Chief, the Deputy Fire Chief, and Assistant Fire Chiefs. This term does not include new employees during their probationary period as determined by the rules of procedure adopted by city council pursuant to the Act.

Election shall mean a formal and organized choice by vote for the purpose of electing to the civil service board the representatives of the employees in the classified service in the city in accordance with the Act.

Election supervisors shall mean the two employees selected by the city manager to manage the polling place(s) established pursuant to this ordinance and the Act for the election of the members to the civil service board by the employees in the classified service as defined herein.

Former employees shall mean persons previously employed by the city who have been separated from employment from the city at least seven years prior to the announcement soliciting persons interested in serving on the civil service board.

Hearing shall mean a hearing before the civil service board as set forth in the Act.

Human Resources Director shall mean the Human Resources Director of the City of Winston-Salem.

Immediate family member shall mean spouse, mother, father, brother, sister, child, stepchild, aunt, uncle, niece, nephew, grandparent, and grandchild. This term shall also include the spouse of an immediate family member.

Majority shall mean, unless otherwise provided, more than half of those present and voting provided there is a quorum present.

Mayor shall mean the mayor of the city of Winston-Salem.

Public Safety Committee shall mean the public safety committee of the City Council of the City of Winston-Salem.

Quorum for purposes of the civil service board shall mean a majority of the total membership of the civil service board. Any person who is present but has been excused from

participating and voting due to a conflict shall be determined to be present for purposes of determining a quorum.

Representative group shall mean an employee in the classified service who is a member of the police department or the fire department and who shall be eligible to vote for one member of the member of the civil service board based upon the employee’s assigned department.

Secretary shall mean the City Clerk of the City of Winston-Salem or the designee of the City Clerk of the City of Winston-Salem.

Section 2-311.1 Purpose and duties.

The purpose of this section is to codify the creation of the civil service board as required by Senate Bill 9, Session Law 2023-112, being Chapter 232 of the Private Laws of 1927, as amended. Consistent with Session Law 2023-112, the duties of the civil service board shall be as follows:

- (1) As addressed in greater detail below, the civil service board shall have the authority to approve any criteria established to fill positions within the classified service of the police and fire departments and the criteria shall apply only to persons promoted or hired after the effective date of the approval; provided, however, the civil service board's approval of criteria established shall not apply to hiring or promotional processes initiated prior to the effective date of this section nor shall it be construed to authorize the civil service board to make any hiring decisions.

- (2) The civil service board shall have the authority to make, and may amend, substantive rules for promoting efficiency in the classified service as authorized by the Act. The rules, and any amendments to the rules, shall be submitted to the city council for approval and shall be open to public inspection when filed with the city council for approval. The city council, after giving members of the classified service and citizens of Winston-Salem an opportunity to be heard at a public hearing, shall act upon the proposed rules and amendments, and the rules and amendments, when approved by a majority vote of the city council, shall be in full force and effect. The civil service board shall also make, and may amend, procedural rules for the conduct of its official proceedings and functions as provided for by the Act. Such substantive and procedural rules may be contained in one document or separate documents. The city council may, before approval, amend the rules or amendments to the rules submitted to it for approval.

- (3) The civil service board shall have the authority to conduct a hearing whenever a member of the classified service is discharged, suspended, reduced in rank, transferred against his or her will, or denied a promotion or raise in pay which he or she would be entitled to, has requested a hearing in accordance with this section, the Act, and the rules of procedure approved by city council. The procedural steps for requesting, conducting, and concluding such a hearing and appealing the decision of the civil

service board to the Forsyth County Superior Court shall be addressed in the rules of procedure consistent with the Act and this section. When conducting a hearing, the civil service board shall determine if the action complained of is justified. The civil service board may also conduct hearings on such matters as may be referred to it pursuant to the Act and this section. The above listed personnel actions (the discharge, suspension, reduction in rank, transfer against his her will or denial of any promotion or raise in pay to which the employee in the classified service would be entitled to) for which a hearing before the civil service board may be requested shall be defined and interpreted consistent with the city's personnel resolution, and other city council adopted or authorized policies and procedures, the employee handbook, and the administrative policies and procedures issued by the city manager, the police and fire departments. Any inconsistencies between the aforementioned policies and procedures and the council adopted resolutions and other actions shall be resolved in favor of the council adopted or approved resolutions and other actions.

- (4) The rules authorized and approved pursuant to this section and the Act, may, among other things, provide:
- (a) For the standardization and classification of all positions and employment in the classified service as defined herein. Such classification into groups and subdivisions shall be based upon and graded according to duties and responsibilities, and so arranged as to promote the filling of the higher grades, so far as practicable, through promotions. The city manager, or the city manager's designee, shall consult representative employees in the police and fire departments to establish criteria to be used to fill each position within those respective departments, including lateral entry positions. If only one respective employee is consulted, he or she shall be a representative chosen by the employees of the respective departments. If a group of two or more employees is established for purposes of this section, at least one-half of the employees shall be chosen by the employees of the respective department. The civil service board shall have the authority to approve any criteria established and the criteria shall apply only to persons promoted or hired after the effective date of the approval; provided, however, the civil service board's approval of criteria established shall not apply to hiring or promotional processes initiated prior to the effective date of this ordinance nor shall it be construed to authorize the civil service board to make any hiring decisions. Such criteria shall not conflict with any applicable local, state, or federal laws, rules, regulations, or standards or case law that apply to local government hiring and promotional processes. The establishment of such criteria ultimately rests with the city manager and the police and fire departments.
 - (b) For temporary or part-time employment to meet the transitory or seasonal needs of the city, except no temporary or part-time employment may occur or continue in violation of applicable state or federal law.

- (c) For the establishment of a probationary period for new employees prior to employees becoming members of the classified service, except no probationary period or any extension thereof may exceed one year in the aggregate.
 - (d) For suspension for purpose of discipline, with or without pay, for no longer than 90 days.
 - (e) For discharge or reduction in rank or compensation after the person to be discharged or reduced has, if he or she so requests, been presented by the employee's supervisor with the reasons therefore specifically stated in writing and has been given an opportunity to be publicly heard in his or her own defense by the civil service board, in accordance with the Act. The written reasons for the discharge or reduction and any reply in writing thereto by the officer or employee shall be filed with the human resources director.
 - (f) For investigation and keeping a record of the efficiency of officers and employees in the classified service and for requiring markings and reports relative thereto from appointing authorities.
- (5) The civil service board, by majority vote of its total membership, city council, by majority vote of its total membership, or the city manager may make official investigations concerning the facts with respect to: (i) the operation and enforcement of the provisions of this section and the Act, (ii) the rules established pursuant to the authority granted by this section, and the Act, and (iii) the condition of the classified service of the city, and may refer such matters to the civil service board for hearing in accordance with this section and the Act, or for further investigation, as appropriate. Any person or body making an investigation authorized or required by section shall have the power to subpoena and require the attendance of witnesses. A copy of the report of the investigation shall be filed with the city clerk and be open for public inspection, subject to the provisions of G.S. 160A-168, Chapter 132 of the North Carolina General Statutes, or any other law governing the disclosure of public records in this State.

Section 2-311. 2 Compliance.

The procedure for the election of the civil service board shall be substantially as provided in this division and the Act.

Section 2-311.3 General duties of city manager.

The city manager, in addition to the duties specifically prescribed by G.S. 160A-147 and as delegated by city council, shall perform such other duties in connection with the election of the civil service board as may be necessary to ensure a fair and impartial election, not inconsistent with this division and the Act.

Section 2-311.4 Civil service board membership.
Eligibility to serve on the civil service board.

The civil service board shall consist of five members that reside within the corporate limits of the city of Winston-Salem elected, selected, and appointed as follows: (1) two members elected by employees in the classified service as follows: one elected by employees in the classified service within the police department as defined herein and one elected by the employees in the classified service within the fire department as defined herein, (2) one member selected upon the mutual agreement of the Fire Chief and the Chief of Police, (3) one member appointed by city council by majority vote upon recommendation of the mayor or city manager and who shall serve at the pleasure of city council, and (4) one member selected by majority vote of the other four members of the civil service board. If the person(s) or entity that is designated to make the appointment, election, or selection to the civil service board is unable to do so, city council, upon recommendation of the mayor or city manager, shall, by default, make the appointment, by majority vote.

Employees are prohibited from serving on the civil service board; however, former employees, as defined herein, may be eligible to serve on the civil service board. City council members are prohibited from serving on the board. No person shall be eligible to serve as a member of the civil service board if the person, directly or indirectly, through any corporation, partnership, or other entity, or contract, subcontract or otherwise benefits financially from a business relationship with the city or if the person has an immediate family member or spouse of the immediate family member who, directly or indirectly, through any corporation, partnership or other entity, or contract, subcontract, or otherwise benefits financially from a business relationship with the city. No person shall benefit, directly or indirectly, from any contractual work or employment with the city for a period of not less than two years following the end of that person's term as a member of the civil service board.

Section 2-311.5 Notice of eligibility requirements for membership.

The city shall publish an announcement in a local newspaper or use an alternative communication method as determined by the city manager in soliciting at least five (5) eligible city residents as candidates for election, selection, or appointment to the civil service board, which names shall be submitted to the clerk's office, under the guidance of the city manager's office, for inclusion on the ballot, if eligible, to be elected by employees in the classified service. All eligible candidates must complete any city required application and other documents at the time so designated by the city. Eligibility is determined based upon the criteria set forth in this ordinance and the Act. From the list of persons who applied in response to the solicitation and who were determined to be eligible to serve on the civil service board, the city manager shall prepare the list of candidates/nominees for the election ballot. Except as noted herein, employees in the classified service shall elect two members of the five-member civil service board, as described in section 2-311.4, from the aforementioned approved list of candidates/nominees. Any city resident from the list that is not elected may be considered for: (a) selection by mutual agreement of the chief of police and fire chief who shall select one member of the civil service board, (b) appointment by city council which, by majority vote, shall appoint one member of the civil service board, (c) appointment by the civil service board, which, by a majority vote of the four other members, shall

appoint one member to the civil service board within 30 days after all of the other members of the civil service board have taken the oath of office. If desired, the fire and police chiefs, city council, and the civil service board may appoint or select, by the votes noted above, a person not on the list, provided the person so appointed or selected is eligible to serve and completes all city required documents for consideration. If the person(s) or entity that is designated to make the appointment, election, or selection to the civil service board is unable to do so, city council, upon recommendation of the mayor or city manager, shall, by default, make that appointment(s) to the civil service board, by majority vote of city council.

Section 2-311.6 List of eligible voters (employees in the classified service) and calling for the election.

The city manager shall make a list, with the assistance of the human resources director, of the names of those persons who are employees of the city and who are in the classified service of the city, as defined by this ordinance and the Act, and only those persons whose names appear on such list shall be qualified and entitled to vote in the election for membership on the civil service board.

The city manager shall call for the election by the members of the classified service of the city for the purpose of electing two members to the civil service board or for electing one or more replacements. The city manager shall give written notice of such election to each employee in the classified service at least ten (10) calendar days but not more than thirty (30) calendar days before the election. The city manager shall also advise in such notice that the members of the civil service board must all be qualified voters of the city and not employed by the city. Former employees who have not been employed by the city for at least seven years prior to the election are eligible to serve provided they meet the other eligibility criteria.

Each eligible voter shall only vote once per election for no more than one person for their representative group, which in essence means that the employees in the classified service within in the fire department will choose one person and the employees in the classified service within the police department will choose one person. The two candidates for the employees within the classified service obtaining the highest the of votes (one for each department) will be the successful candidate. For any subsequent election, the number of votes will be determined by the number of seats up for election/reelection. If it is determined that an eligible voter voted more than once or the allotted number of times, the additional votes shall be disqualified and discounted.

The city manager may establish a process for members of the classified service to cast an absentee ballot. The city manager shall notify members of the classified service of said process at least 60 calendars in advance of the election.

Section 2-311.7 Polling place and hours.

At each election of the civil service board, the city manager shall identify at least one polling place and the hours of operation for said place. At least 10 calendar days before the election, the city manager shall notify members in the classified service of said polling place(s) and the hours of operation.

Section 2-311.8 Election supervisors.

In the election of the civil service board, the city manager shall select two people who shall open and close the polls and supervise the polls until the close of the election. They shall keep the poll books in which shall be entered the names of every person who shall be eligible to vote, who actually voted, and at the close of the election, they shall certify the poll books, as the books used for the election process, over their proper signatures and deposit them with the city clerk. The supervisors shall not be entitled to overtime compensation.

Section 2-311.9 Ballots and method of voting generally.

Two persons are entitled to be elected as members of the civil service board and a single ballot shall be prepared having the names of all persons nominated placed thereon and for the member of the classified service casting the ballot to mark their choice (one for the police department and one for the fire department) from the list of candidates/nominees and the act of marking beside the name of one such person shall count as one vote for said person. No ballot shall be counted when an eligible voter places marks beside the names of two or more different candidates. If a voter marks the name of the same person twice on the same ballot, then such ballot shall be counted only as one vote for such a person. Each ballot shall have one blank space for the voter to write in the name of any person not duly nominated and listed on the ballot, provided said person is eligible to be elected. The act of writing in the name of such person as a candidate shall count as one vote for said person. If the name written on the ballot is ineligible to serve for reasons noted by the Act, any other applicable provision in state law or this ordinance, such as the person is an employee or is not a resident of the city, then the person so named shall be disqualified and discounted.

Section 2-311.10 Secret ballot required.

Voting in any election governed by this division shall be by secret ballot.

Section 2-311.11 Counting of ballots; election night

When an election under this division is completed, the election supervisors shall open the boxes and count the ballots, and the counting of the ballots, as described in this division, shall be continued without adjournment until completed and the results, by name and number of votes, declared. The results do not become official until the same have been counted in city hall before the city clerk and have been presented to city council at the first available regular or special meeting.

Section 2-311.12 Counting of ballots; next day.

The election supervisors shall convene in the city council chamber before the city clerk the next workday after the election at 10:00am or as soon thereafter as reasonable and shall count the votes in accordance with section 2-311.13 below.

Section 2-311.13 Canvassing, determination, and certification of results.

The election supervisors shall, at the meeting referred to above and in the presence of the city clerk and such other persons whose names appear on the list referred to in Section 2-311.6 as may choose to attend, open, canvass, and judicially determine the results of the election, and shall make abstracts stating the number of votes cast, including the name of each person voted for and the number of votes given to each person and shall sign such abstracts. The election supervisors shall have the power and authority to pass upon all the votes relative to the election and determine and declare the result of such election. In addition, the election supervisors shall file two certified copies of said result, one copy of which shall be filled with the city manager and one with the city clerk, who shall present said certification to the city council at its next regular or special meeting.

Section 2-311.14 Persons receiving most of votes to be elected.

The two persons receiving the highest of votes in the election, one for the fire department and one for the police department, shall be elected as members of the civil service board by the employees in the classified service. In the event of a tie vote, the city manager shall determine the process to resolve said tie vote.

Section 2-311.15. Appointment based upon mutual agreement of the chief of police and chief of fire.

Within thirty (30) days following the receipt by the city clerk and city council of the certification of the election results, the chief of police and the chief of fire, by mutual agreement, shall select the third member of the civil service board as indicated in Section 2-311.4 herein. City council shall not be required to vote upon the certification or results so submitted. Following the selection of a member by the mutual agreement of the chief of police and chief of fire, city council shall be advised of the member so selected before city council appoints its member to the civil service board.

Section 2-311.16 Appointment by city council.

City council shall appoint, upon recommendation of the mayor or city manager, a member to the civil service board by majority vote. If any other person(s) or entity, that is designated to make the appointment, election, or selection to the civil service board, is unable to do so, city council, upon recommendation of the mayor or city manager, shall, by default, make the appointment, by majority vote.

Section 2-311.17. Terms of members and officers.

Members of the civil service board shall take an oath of office to faithfully perform their duties. Members shall serve two-year terms and may serve successive terms in the same manner initially selected, elected, or appointed. Members shall serve until replaced. Any vacancy on the civil service board shall be filled by the body or group that selected, appointed, or elected the

member. Members elected, selected, or appointed to fill a vacancy serve for the remainder of the unexpired term. Any person elected, selected, or appointed to fill less than fifty percent of a term shall not be considered to have served a term.

The chairperson of the civil service board shall be appointed, annually, or more often as needed, from the membership of the civil service board by city council. The civil service board shall select from its membership a vice-chairperson, annually. Prior service as a vice chairperson or chairperson shall not preclude the subsequent selection as a vice chairperson by the civil service board or the subsequent appointment as chairperson by city council. There is no limit on the number of times a member may serve as vice chairperson or as chairperson.

The members of the civil service board shall serve without compensation. However, members of the civil service board may be reimbursed for expenses related to their service pursuant to policies adopted by the city.

Section 2-311.18 Meetings; notices.

After the full civil service board membership has been impaneled, the civil service board shall meet to determine its initial meeting schedule and thereafter the civil service board shall meet in January of each year to adopt a regular meeting schedule. The deadline for receiving items for regular civil service board meetings shall be seven (7) calendar days prior to the meeting. Special meetings may be called by the chairperson and may be called upon a written request signed by two or more civil service board members. The call for a special meeting shall be submitted to the city clerk not less than seven (7) calendar days prior to the requested special meeting date. Notice of all meetings shall contain a meeting agenda, which shall include a section for other business to hear and consider any other matters related to the civil service board’s functions and duties and which may be addressed by any member of the civil service board and by any person in attendance. Within a reasonable time after the meeting, the civil service board shall supply the city’s human resources director with notification of any actions, reports, or recommendations made by the civil service board, and the human resources department shall notify the affected members of the classified service of actions, reports, and recommendations made by the civil service board.

Section 2-311.19. Quorum of the civil service board

A majority of the total membership of the civil service board shall be considered a quorum and any action of a majority of the membership of the civil service board present and voting shall be necessary for an action to be carried out. All civil service board members shall attend regular and special meetings of the civil service board for the purpose of complying with the city’s attendance policy and familiarity with the civil service board business and procedures. Attendance at meetings and continued service on the civil service board shall be governed by the attendance policies established by city council.

Section 2-311.20 Secretary.

The city clerk or the clerk’s designee shall serve as the secretary to the civil service board and shall perform all required ministerial functions and duties for the civil service board, including

but not limited to, the electronic recording of and the preparation of minutes of all civil service board meetings and hearings, maintaining custody of all civil service board records, and the posting and issuing of meeting notices to members of the board and the public in accordance with Article 33C of Chapter 143 of the General Statutes.

Section 2-311.21 Recording of meetings; disclosure.

To assist the secretary in performing the function and duties, all civil service board meetings shall be electronically recorded, and transcripts thereof made available to members of the civil service board, upon request, and within a reasonable time period as determined by the secretary, and at no charge. All other persons shall be entitled to the recordings and records, upon request except for those items to which disclosure is prohibited by G.S. 160A-168, Chapter 132 of the General Statutes, or other laws governing the privacy or confidentiality of employee or personnel records.

Section 2-311.22 Removal of members.

Members appointed by city council shall serve at the pleasure of city council and may be removed by city council. Members elected by employees in the classified service by be removed by employees in the classified service upon a majority vote. The process for the removal of a member shall not commence until a petition containing the names of a majority of those eligible to vote has been received and verified by the human resources director. A member selected by mutual agreement of the chief of police and fire chief may be removed by mutual agreement of the chief of police and fire chief. Once removed, new members shall be appointed, selected, or elected using the same process set for in the Act and this ordinance for the appointment, selection, or election of the initial members.

Section 2-311.23 Legal representation.

By a majority vote of those members present and voting at any of its official meetings, the civil service board may designate independent legal counsel of its choice to advise or represent the civil service board, or both, on such occasions and in such matters as the majority of those civil service board members present and voting deem to be appropriate and necessary. The civil service board shall establish a roster of attorneys from which it may select counsel for the purpose of advising the civil service board during or in connection with hearings held in accordance with the Act. The list shall be subject to review and approval by the city attorney as to qualifications and fees. The city shall be responsible for the payment of the professional legal services authorized in accordance with the Act. The use of independent counsel for matters other than hearings held pursuant to the Act shall be limited to 20 hours each year. In order to avoid the appearance of any possible conflict of interest, the Office of the City Attorney shall serve as legal advisor to or attorney for the civil service board, or both, only for those matters or proceedings when specifically requested to do so in a writing that has been signed by no fewer than four members of the civil service board.

Section 2-311.24 Subpoena power.

Any person or body making any investigation authorized or required by Section 2-311.1 or the Act shall have the power to subpoena and require the attendance of witnesses. For purposes of the hearings that the civil service board is authorized to conduct, the civil service board shall also have the power to issue subpoenas for the attendance of witnesses or the production of documents.

Section 2-311.25 Budget.

The city manager shall recommend, and city council shall approve, funding for the operational needs of the civil service board in the city's annual budget.

Section 2-311.26. Other city policies and procedures.

The members of the civil service board shall adhere to city policies and procedures applicable to other city boards and commissions including, but not limited to, the city's ethics policy, provided the same is consistent with the Act.

Section 2-311.27. Annual reports

The civil service board shall provide, annually, to the public safety committee or some other committee as city council may designate, a report containing information, consistent with the state personnel privacy laws, regarding appeals decided, and other activities of the civil board service board.

Section 2. Section 2-63. Public bodies designated; meetings. is modified to include the "Civil Service Board of the City of Winston-Salem" to be inserted, in alphabetical order, in the list of public bodies.

Section 3. This ordinance shall become effective upon adoption.