

Introduced by: City Manager Hannan  
 Date: March 10, 2015  
 Public Hearing: March 24, 2015  
 Action: Adopted  
 Vote: Unanimous

| Yes:       | No: |
|------------|-----|
| Best       |     |
| Erbey      |     |
| Carrington |     |
| Combs      |     |
| DeVries    |     |
| Hanson     |     |
| Johnson    |     |

CITY OF PALMER, ALASKA

**Ordinance No. 15-012**

**An Ordinance of the Palmer City Council Amending Palmer Municipal Code Section 4.05.005 Definitions, to Define Department Director, 4.05.010 Application, Section 4.15.020 Selection, Section 4.50.080 Layoffs to Reflect the Palmer Fire and Rescue and Palmer Police Departments**

THE CITY OF PALMER, ALASKA ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Section 4.05.005 is hereby amended to read as follows (new language is underlined and deleted language is stricken out):

**4.05.005 Definitions.**

As used in this chapter:

- A. "Active pay status" means time worked and approved personal leave.
- B. "Adverse action" means suspension without pay, involuntary demotion or discharge, expedited or otherwise, for cause.
- C. "Appointive officers" means the city manager, attorney, and the city clerk. The appointive officers serve at the will of the council.
- D. "At will employee" means an employee that is employed at the will of the city and can be dismissed at any time for any reason. All temporary, on call, seasonal employees, the police chief, the fire chief, and all department directors are at will.
- E. "Certified trainer" means an employee who is certified by a state or federal agency or a recognized professional organization to provide training.
- F. "City manager" means city manager or designee, and acting city manager in the absence of the city manager.

- G. "Classified service" shall be comprised of all positions with the exception of elective and appointive officers, and at will employees.
- H. "Computation of time," except when otherwise provided, means the time within which an act is required to be done and shall be computed by excluding the day of the act, event or default from which the designated period of time begins to run and including the last day of the period unless the last day is Sunday or a holiday, in which case it shall also be excluded.
- I. "Controlled substance" means a controlled substance in Schedules I through V of 21 USC 812.
- J. "Conviction" means a finding of guilt (including a plea of nolo contendere or no contest) or suspended imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state of Alaska criminal drug statutes.
- K. "Criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use or possession of any controlled substance.
- L. "Demotion" means the change of an employee from a position in one class to a position in another class with a lower pay level. Involuntary demotion means a demotion required by the city, not agreed to by the employee, and occurring while the employee is not in promotional probationary status. Voluntary demotion means any demotion other than an involuntary demotion.
- M. "Department Director" means the person designated by the City Manager to direct a department.
- N. ~~M.~~ "Employee" means any person in the employ of the city who is subject to this title.
- O. ~~N.~~ "Exempt employee" means an employee who is exempt from the payment of overtime as determined by the personnel officer based on the Federal Fair Labor Standards Act.
- P. ~~Ø.~~ "Family" means spouse, eligible same-sex domestic partner, siblings, parents and children. In-laws are covered under the term "family."
- Q. ~~P.~~ "Flex schedule" means variable work hours requiring employees to work a standard number of core hours within a specified period of time, allowing the city greater flexibility in an employee's starting and ending times.
- R. ~~Q.~~ "Leave without pay" (LWOP) is an approved temporary absence from duty in a nonpay status requested by an employee. The term does not cover a suspension or an absence for which leave has not been approved.
- S. ~~R.~~ "Light duty" is alternative work for employees who are unable to perform some or all of their routine duties due to illness or injury. The work is physically or mentally less demanding than normal job duties. An employee must present a physician's note to be placed on light duty.
- T. ~~S.~~ "Merit anniversary date" means the month and day that the employee completes his or her probationary period. The anniversary date will be advanced by the number of calendar days that the employee's total leave without pay exceeds 30 days during any anniversary year of the employee.
- U. ~~T.~~ "Nonexempt employee" means an employee who is entitled to receive overtime pay under the Federal Fair Labor Standards Act.
- V. ~~U.~~ "On call employee" means an employee who is not guaranteed any hours each week, who does not have a set regular schedule, and one that fills in as needed.
- W. ~~V.~~ "Personnel officer" is the human resources specialist and designated employee representative (DER).

- X. ~~W.~~ "Program or project employee" is an employee who is employed with prior written understanding that employment in that position will continue for at most the duration of a specified program or project that has an established probable date of termination.
- Y. ~~X.~~ "Promotion" means a change in status of an employee from a position of one class to a position of another class having a higher maximum salary limit.
- Z. ~~Y.~~ "Regular full-time employee" means an employee who has completed the initial probationary period including any extensions together and who is not a seasonal or temporary employee and regularly works 30 or more hours a week.
- AA. ~~Z.~~ "Regular part-time employee" means an employee who is hired to work on a regular and continuing basis for less time than a full-time employee.
1. Regular part-time employees who work an average of 20 but less than 30 hours per week are eligible for prorated holiday and leave pay based on hours worked.
  2. Regular part-time employees who work less than an average of 20 hours per week are not eligible for holiday and leave pay.
- BB. ~~AA.~~ "Seasonal employee" refers to an employee who occupies a position for less than 12 months each year where it is anticipated that the same employee may return to the position when needed.
- CC. ~~BB.~~ "Standby." The department director in his or her discretion shall schedule employees on standby status. An employee on standby status shall meet the following criteria:
1. Comply with this title;
  2. Respond to notification for work; and
  3. Report to the job site within 30 minutes of being contacted.
- DD. ~~CC.~~ "Temporary employee" means an employee who is needed for a certain period, which may exceed 12 consecutive months.
1. All assignments exceeding 12 consecutive months shall have prior written approval of the city manager.
  2. The rate of pay is based on the requirements listed in the job description.
  3. Temporary employees are not eligible for city benefits and are at will employees.
- EE. ~~DD.~~ "Transfer" means the movement of an employee from a classification to another having the same maximum salary.
- FF. ~~EE.~~ "Treasurer" is the finance director.
- GG. ~~FF.~~ "Volunteer firefighters" are not classified employees and serve at the will of the fire chief.

Section 4. Section 4.05.010 is hereby amended to read as follows (new language is underlined and deleted language is stricken out):

**4.05.010 Application.**

- A. This regulation shall apply to all employees in the classified service of the city, except as otherwise provided.
- B. The Chief of Police ~~director of public safety~~ may, with the approval of the city manager, prepare policies for the conduct of peace officers, as defined by the Alaska Police Standards Council, as well as dispatchers and other police department related personnel ("others").
  1. To the extent such policies for the conduct of peace officers are inconsistent with the provisions of this chapter, such rules and regulations shall take precedence.
- C. Elected officials and appointive officers are not classified employees. The council may make some or all of the personnel regulations applicable to the city manager and clerk.

- D. At will employees are subject to all provisions of this title with the exception of PMC 4.50.005 through 4.50.080.
- E. The following sections of this title shall apply to volunteer firefighters: this section, PMC 4.15.080(B) and (C), and Chapters 4.70, 4.90, 4.100, and 4.110 PMC.

Section 5. Section 4.05.020 is hereby amended to read as follows (new language is underlined and deleted language is stricken out):

**4.15.020 Selection.**

**A. Filing Applications.**

1. To be considered for a position, each applicant (including current city employees) must submit a city of Palmer application to the city of Palmer, Human Resource Department, 231 W. Evergreen Avenue, Palmer, Alaska 99645.
2. All applications must be submitted on or before the closing date and time specified in the announcement.
3. Applications received after the closing deadline shall not be accepted for the particular position in the announcement.

**B. Minimum Qualification/Disqualification.**

1. The personnel officer or designee shall screen applicants by reviewing the job applications.
2. The city may refuse to examine an applicant, or after examination may refuse to select an applicant or to place his or her name on an eligibility list, or may remove his or her name from an eligibility list, who:
  - a. Has failed to submit the application correctly or within the prescribed limit;
  - b. Is found to lack the minimum qualifications in the recruitment announcement or examination for the position;
  - c. Has withheld information of material fact or made a false statement of material fact in regard to his or her application;
  - d. Has used or attempted to use bribery to secure an advantage in the examination or appointment;
  - e. Has directly or indirectly obtained information regarding examinations to which he or she is not entitled; or
  - f. Other reasons which are not in violation of state or federal law.

**C. Examinations.** An applicant will be eligible to take examinations if he or she meets the minimum qualifications established by the department director. These qualifications may include education, experience, and other factors as related to the ability of the applicant to perform with reasonable efficiency the essential functions of the position with or without an accommodation.

**D. Examination Contents and Procedure.**

1. All examinations required shall be practical and shall relate to the duties and responsibilities of the position for which the applicant is being examined and shall measure the relative capacity and fitness of the person examined to perform the essential functions of the class of positions to which they seek to be appointed (or promoted). The examination or other tests found reasonable by the personnel officer used to determine the fitness and relative ability of the applicant may consist of one or more of the following:
  - a. Written tests;
  - b. Performance tests;

- c. Physical tests of strength, stamina or dexterity;
- d. Evaluation of education, training and experience as shown on the application;
- e. Interviews designed to determine general fitness for the position;
- f. Pre-employment health examinations;
- g. Drug test; and
- h. Interviews.

In addition, for police officers, additional testing requirements may be required, including, but not limited to: polygraph examination, psychological examination, fingerprinting, extensive background investigation and criminal background review.

In addition, for all other police department employees, additional testing requirements may be required, including, but not limited to: fingerprinting, extensive background investigation and criminal background review.

2. Five working days before applications for the position close, the department director will submit for the personnel officer's approval any examinations to be used to rank the applicants.
  3. The department director may require information as to education, training and experience of applicants and such other information as the department director may reasonably deem pertinent. If the department director determines a need to contact any applicant for further information, the personnel officer shall contact the applicant and all applicants similarly situated shall be extended this same opportunity. The personnel officer may require any applicant for examination to submit documented proof of the possession of any license, certificate, degree or other qualification claimed or required and may refuse credit for such qualifications in the absence of proof.
- E. Conduct of Examinations. Examinations shall be conducted at a testing site approved by the personnel officer or under the supervision of the department director. All examiners and monitors used in the conducting of examinations shall be provided with such instructions as may be required for fair and impartial administration.
- F. Interviews. When an interview panel forms a part or all of the examination for a position, the city manager or designee shall appoint an interview board. This board shall consist of at least three members:
1. The director or designee of the department having the vacancy;
  2. City of Palmer employee with the same job classification or higher as the position being filled; and
  3. The personnel officer or designee. As a general rule, all applicants selected for interview shall be interviewed and rated by the same panel. Alternate members may be used only when determined necessary by the personnel officer.
- G. Method of Ranking.
1. Vacancies will be filled by the most qualified applicant based on the criteria as established in subsection (G)(2) of this section.
  2. Five working days before applications for the position close, the department director shall submit for the personnel officer's approval the interview questions and the method of ranking to be used for hiring list eligibility.
- H. Offering Positions.
1. Pre-Offer Procedure.
    - a. Qualified Candidates. The department director shall provide the names of the most qualified applicant(s) to the personnel officer.
    - b. Additional Information. If additional information is needed to document qualifications, a memo to the personnel officer shall be included.

- c. References. Prior to selection of a candidate, the personnel officer shall check the references for the top candidates.
  - d. References – Palmer Police Department. ~~Department of Public Safety.~~ Prior to selection of a candidate, the Palmer Police Department ~~of public safety~~ shall conduct background checks in accordance with Alaska law on candidates for employment.
2. Conditional Offers.
- a. Notification of Conditions. Before making final selection of the most qualified applicant, the department director shall notify the personnel officer of any conditions of employment in writing.
  - b. Examples. Examples of conditions include without limitation the successful completion of a background investigation or post-offer medical examination, receipt of negative results of a post-offer drug test, or Alaska licensing.
  - c. Conditional Job Offer. The personnel officer will make conditional job offers for all non-department of public safety employees.
  - d. Conditional Job Offer – Palmer Police Department. ~~Department of Public Safety.~~
    - i. The chief of police shall make conditional job offers for Palmer Police Department ~~of public safety~~ employees.
    - ii. The conditions shall be based on the examples listed in this section.
    - iii. The chief of police shall forward all conditions of employment to the personnel officer.
  - e. Employment Effective Upon Written Approval. When the conditions have been met and the applicant accepts the position, employment becomes effective upon written approval of the personnel officer and city manager.
3. Positions Offered. The personnel officer shall make all offers of employment, transfer or promotion, either oral or written.
4. Employment.
- a. All applicants must successfully pass the pre-employment drug screening prior to starting employment with the city.
  - b. All applicants must submit a copy of their driving record and a background report from the State Troopers during orientation with the personnel officer or designee.
  - c. The cost of the driving record and background report will be reimbursed during normal account payables procedures.
- I. Eligibility List.
- 1. The department director may include in the position announcement that not only a position opening exists but that an eligibility list may be made of top qualified applicants based on the examination. In such case, the department director may establish an eligibility list and provide a copy to the personnel officer.
  - 2. Within 30 days of the establishment of the eligibility list, the personnel officer shall notify all qualified applicants in writing whether their names have or have not been included on the eligibility list.
  - 3. If a position for which an eligibility list exists becomes open for hiring, the personnel officer at the request of the department director and approval of the city manager may choose to hire from the eligibility list.
  - 4. Filling Vacancy from Eligibility List.
    - a. To fill a vacancy by selection of a candidate from an eligibility list, the department director shall submit the eligibility list to the personnel officer and city manager.

- b. This list may be for one or more positions in the same job position and shall indicate the number and identity of positions to be filled and the title of the position to which they have been allocated and shall include other material information.
  - c. The department director shall submit the list with his or her request to interview as far in advance as possible prior to the date he or she desires the employee to begin work.
  - d. The request shall be subject to approval of both the personnel officer and city manager.
  - e. The list submitted by the department director shall include the names of all candidates included in the highest rankings, normally the top five rankings, pursuant to the examination.
5. The period during which an eligibility list remains in effect shall be determined in writing by the department director upon the establishment of such list, but the period shall not exceed six months from the close of the application period for the position. If the department director chooses and receives city manager approval to commence the recruitment and selection procedure to fill a job position for which an eligibility list exists, then the eligibility list ceases to be effective.
6. The department director, after notifying the personnel officer in writing and receiving written approval from the personnel officer, may remove the name of an eligible candidate from the list for the following reasons:
- a. The eligible candidate cannot be located by mail or the candidate has failed to respond within five days to a notice of inquiry regarding availability for appointment;
  - b. Upon written notification from the eligible candidate that he or she no longer desires consideration for a position in that class;
  - c. The eligible applicant declines position offered; or
  - d. Fails to report to duty within a reasonable time not to exceed 30 days.
- J. Recruitment and Selection Records.
- 1. Within five days of the offer being accepted by the employee or the establishment of the eligibility list, the department director shall organize in an orderly manner and deliver to the personnel officer all records and documents pertinent to the recruitment and selection.
  - 2. These records and documents shall include without limitation all announcements, a description of the selection procedure, all applications, all tests, all test results, all ranking sheets, all correspondence with applicants, all information regarding the methods and materials used, and all notes taken by raters.
- K. This section does not apply to the selection of department directors and volunteers.

Section 6. Section 4.50.080 is hereby amended to read as follows (new language is underlined and deleted language is stricken out):


**4.50.080 Layoffs.**

- A. Reasons for layoff will include without limitation the following:
  - 1. Shortage of funds or work;
  - 2. The abolition of the position or classification;
  - 3. Other material changes in the duties or organization; or
  - 4. For related reasons which are outside the employee's control or which do not reflect discredit upon the service of the employee.
- B. Layoff Procedure.

1. The city manager may eliminate positions or classifications in the best interests of the city after consulting with the affected department director.
  2. The duties performed by any employee laid off may be reassigned to other employees already working.
  3. Palmer Police Department ~~Department of public safety~~ employees shall be laid off by department seniority within a job classification.
  4. The city manager or designee shall give written notice to the employee of the proposed layoff. The notice shall state the reason for the layoff and the employee shall receive two weeks' severance pay.
  5. The employee's final pay check shall be tendered within three business days of the last day of employment and if mailed, shall be mailed certified return receipt.
- C. Eligibility for Reinstatement.
1. An employee who has been laid off and who is not disqualified under subsection (C)(4) or (5) of this section will be given preference for reinstatement for any position that becomes vacant provided that the employee meets the minimum entry-level qualifications.
  2. If more than one employee has been laid off reinstatement preference will be given in order of departmental seniority for the Palmer Police Department ~~Department of public safety~~ and in order of qualifications elsewhere.
  3. Acceptance of an appointment to any position, other than a temporary or part-time position, constitutes satisfaction of an employee's reinstatement rights.
  4. A layoff of more than one year shall terminate the employee's entitlement to preferential reinstatement rights.
  5. Once the employee has been reinstated into a position, the employee will have 90 days to adequately perform the duties of the new position. If, in the judgment of the department director, the employee fails within 90 days to adequately perform the duties of the new position, the employee will be terminated without further reinstatement rights.

Section 7. Effective Date. Ordinance No. 15-012 shall take effect upon adoption by the City of Palmer City Council.

Passed and approved this twenty-fourth day of March, 2015.

  
DeLena Goodwin Johnson, Mayor

  
Janette M. Bower, MMC, City Clerk