

ORDINANCE NO. 2021-40

**AN ORDINANCE OF THE CITY OF BATTLE GROUND, WASHINGTON ESTABLISHING A
SALARY COMMISSION**

WHEREAS, as a means of preventing the use of public office for self-enrichment, the Washington State Constitution, Article 11, Section 8, initially prohibited any changes in the pay applicable to an office having a fixed term, either after the election of that official or during his or her term; and

WHEREAS, by Article 30 (Amendment 54), adopted in 1967, and an amendment to Article 11, Section 8 (Amendment 57) in 1972, the rule was modified to permit pay increases for officials who do not fix their own compensation; and

WHEREAS, the State Legislature adopted RCW 35.21.015 to provide the ability for city councilmembers and commissioners to receive mid-term compensation increases, provided that a local salary commission was established and that the commission set compensation at a higher level; and

WHEREAS, RCW 35.21.015 authorizes the creation of a salary commission of city residents that may increase the salary of elected officials effective mid-term, and decrease the salary of elected officials effective upon subsequent terms of office, by filing a change in salary to the city clerk without further action of the city council; and

WHEREAS, the Battle Ground City Council wishes to establish a salary commission in accordance with RCW 35.21.015; and

WHEREAS, RCW 41.04.180 indicates that municipality can provide health insurance benefits for their employees and RCW 41.04.190 clarifies that health insurance coverage may also be provided to its elected officials, the cost of which does not constitute additional compensation; and

WHEREAS, pursuant to RCW 41.04.190, elected officials are eligible for health insurance benefits as defined by RCW 48.44.010; and

WHEREAS, the current compensation for the Battle Ground City Council was established by the Battle Ground City Council pursuant Ordinance 19-25 and codified as BGMC 2.04.040; and

WHEREAS, health insurance coverage is currently available to the Battle Ground City Council as established by Ordinance 19-25 and codified as BGMC 2.04.050; and

WHEREAS, it is the intent of the City Council of Battle Ground that the established salary commission will review the salary and benefits provided to the City Council of Battle Ground and make a recommendation of any increase, decrease, or changes appropriate thereto; and ; and

NOW THEREFORE, the City Council of the City of Battle Ground, Washington does hereby ordain as follows with the creation of a new chapter until Title 2, Administration and Personnel.

SECTION 1. Chapter 2.86 - SALARY COMMISSION

- 2.86.010 Created-Membership.**
- 2.86.020 Qualifications.**
- 2.86.030 Duties.**
- 2.86.040 Open meetings.**
- 2.86.050 Referendum.**

2.86.010 Created- Membership

- A. There is created a salary commission for the city. The commission shall consist of three members, to be appointed by the mayor with the approval of the City Council.
- B. The members of the salary commission shall serve without compensation.
- C. Each member of the commission shall serve a term of three years, except that the initial members shall be appointed for staggered terms of one, two, and three years.
- D. No member of the commission shall be appointed to more than two (2) terms.
- E. In the event of a vacancy on the salary commission, the mayor shall appoint, subject to approval of the city council, a person to serve the unexpired portion of the term of the vacated position.
- F. A member of the commission shall only be removed from office for cause of capacity, incompetence, neglect of duty, or malfeasance in office, or for disqualifying change residence.

2.86.020 Qualifications

- A. Each member of the commission shall be a resident of the City.
- B. No member of the commission shall be an officer, official, or employee of the city or immediate family member of an officer, official, or employee of the city. For purposes of this section, "immediate family member" means the parents, spouse, sibling, children, or dependent relatives of an officer, official, or employee of the city, whether or not living in the household of the officer, official, or employee.

2.86.030 Duties.

- A. The commission shall have the duty to meet annually commencing the year 2022, to review the salaries paid and the health insurance benefits provided by the City to each elected city official. The commission shall determine the number of meetings necessary to fulfill the duties as prescribed herein, but in so doing shall comply with the obligation to hold no fewer than two (2) public hearings thereon as required by BGMC 2.86.040. The commission shall be required to complete the fulfillment of their duties by September 30th of each year.
- B. If after such review the commission determines that the salary paid to an elected city official should be increased or decreased, the commission shall file a written salary schedule with the city clerk indicating the increase or decrease in salary and the effective date. Prior to filing the

salary schedule with the City clerk, the city attorney shall review the salary schedule for ambiguity and legality and shall approve the salary schedule as to form if the schedule is unambiguous and legal. This salary schedule shall be provided to the city attorney by September 30th of each year. In the event the city attorney determines the salary schedule contains any ambiguity or illegality, the city attorney shall notify the city manager of such and the city manager shall be permitted to call a meeting of the salary commission to correct the ambiguity or illegality.

- a. Any increase or decrease in salary established by the commission shall become effective and incorporated into the city budget without any review or further action from the city council or the salary commission.
 - b. Salary increases established by the commission shall be effective as to all city elected officials, regardless of their terms of office. Salary increases established by the commission shall be effective on the next payday for City employees, or under the condition established in the salary schedule if different.
 - c. Salary decreases established by the commission shall become effective as to incumbent city elected officials at the commencement of their next subsequent terms of office.
 - d. For purposes of this section, "salary" means any fixed compensation paid or provided periodically for work or services and includes, but is not limited to, wages and medical or other benefits. This definition expressly excludes any expenses paid or reimbursed on behalf of the mayor or council member for training and travel expenses.
- C. If after such review the commission determines that the health insurance benefits provided to an elected city official should be changed, the commission shall file a written statement with the city clerk indicating what changes should occur and what types of health insurance benefits, if any, shall be provided. Prior to filing the written statement with the City clerk, the city attorney shall review the written statement for ambiguity and legality and shall approve the written statement as to form if the statement is unambiguous and legal. This written statement shall be provided to the city attorney by September 30th of each year. In the event the city attorney determines the written statement contains any ambiguity or illegality, the city attorney shall notify the city manager of such and the city manager shall be permitted to call a meeting of the salary commission to correct the ambiguity or illegality.
- a. Any change in health insurance benefits as established by the commission shall become effective and incorporated into the city budget without any review or further action from the city council or the salary commission.
 - b. Any change in health insurance benefits established by the commission shall be effective as to all city elected officials, regardless of their terms of office. A change in health insurance benefits established by the commission shall be effective on January 1st of the next calendar year.
 - c. In determining what type of health insurance benefits shall be provided to the City Council, the commission shall be limited to only authorizing health insurance benefits

currently available and already provided by the city to employees.

2.86.040 Open meetings.

All meetings, actions, hearings, and business of the commission shall be subject to the Open Public Meetings Act as set forth in Chapter 42.30 RCW. Prior to the filing of any salary schedule by September 30th of each year, the commission shall hold no fewer than two (2) public hearings thereon within the two (2) months immediately preceding the filing of its salary schedule.

2.86.050 Referendum.

- A. Any salary increase or decrease established by the commission pursuant to this chapter shall be subject to referendum petition by the voters of the city, in the same manner as city ordinance, upon filing of a referendum petition with the city clerk within 30 days after filing of a salary schedule by the commission. In the event of the filing of a valid referendum petition, the salary increase or decrease shall not go into effect until approved by a vote of the people.
- B. Referendum measures under this section shall be submitted to the voters of the city at the next following general or municipal election occurring 30 days or more after the petition is filed, and shall otherwise be governed by the provisions of the state constitution and the laws generally applicable to referendum measures.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Regulatory Conflicts. All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of the inconsistency or conflict.

Section 4. Corrections. The City Clerk and the codifiers of this ordinance are authorized to make necessary clerical corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

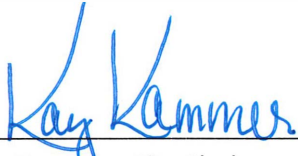
Section 5. Effective date. This ordinance shall be published in summary form and be in full force and effective thirty {30} days from the passage and published in accordance with law.

ADOPTED IN OPEN MEETING OF THE CITY COUNCIL OF THE CITY OF BATTLE GROUND,
WASHINGTON THIS 6th DAY OF DECEMBER, 2021.



Adrian Cortes, City of Battle Ground Mayor

Attested to by



Kay Kammer, City Clerk

Approved as to form



Christine Hayes, City Attorney