

Employment Agreement **Fiscal Years** **2008-2010**



International Association of Firefighters, Local 1882
And
The City Of Lawton, Oklahoma

TABLE OF CONTENTS

EMPLOYMENT AGREEMENT 1

ARTICLE 1 – PURPOSE OF AGREEMENT2

ARTICLE 2 – RECOGNITION3

ARTICLE 3 – PREVAILING RIGHTS4

ARTICLE 4 – AUTHORITY AND TERM.....5

ARTICLE 5 – MUTUAL RESPONSIBILITY TO AVOID DISCRIMINATION6

ARTICLE 6 – GRIEVANCE PROCEDURE.....7

 6.6 Arbitration.....9

ARTICLE 7 – PROHIBITION OF STRIKES.....11

ARTICLE 8 – MANAGEMENT RIGHTS12

ARTICLE 9 – UNION SECURITY14

 9.1 Bargaining Agent Business.....14

 9.2 Stewards.....14

 9.3 Grievances.....14

 9.4 Bulletin Boards15

 9.5 Dues Check-Off.....15

 9.6 Seniority16

 9.7 Promotional Appointments17

 9.8 Personnel Reduction17

 9.9 Regular and Special Meetings of the Bargaining Agent.....17

 9.10 Bargaining Committee18

 9.11 Personnel Files.....18

 9.12 Conversion Privileges19

 9.13 Back Pay Claims19

 9.14 Maximum Productivity19

 9.15 Destruction of Property.....20

 9.16 Representation by Attorney20

 9.17 Copies of Agreement20

 9.18 Retirement Benefits20

 9.19 Work Schedule.....21

 9.20 Deferred Compensation21

ARTICLE 10 – UNIFORM REQUIREMENTS AND MAINTENANCE ALLOWANCE22

 10.2 Uniform Maintenance23

ARTICLE 11 – TRANSPORTATION ALLOWANCE.....	24
ARTICLE 12 – INSURANCE.....	25
12.1 Group Health Insurance and Life Insurance Coverage.....	25
12.2 Accidental Death Benefit.....	26
12.3 Continuation of Health Insurance.....	27
12.4 Flexible Benefits.....	27
ARTICLE 13 – WAGES, LONGEVITY PAY, INCENTIVES AND OVERTIME.....	28
13.1 Wages.....	28
13.2 Longevity.....	28
13.3 Educational Assistance/Incentive Pay.....	28
13.4 Overtime.....	31
13.5 Compensatory Time.....	32
13.6 Standby Pay for Fire Marshal.....	33
13.7 Working Out of Classification.....	33
13.8 Physical Fitness Incentive.....	33
13.9 General.....	34
ARTICLE 14 – EMERGENCY RESPONSE INCENTIVE PAY.....	35
14.1 First Responder Required.....	35
14.2 Firefighter II Certification.....	36
ARTICLE 15 – LEAVES.....	37
15.1 Vacation Leave.....	37
15.2 Use of Vacation Benefits.....	38
15.3 Holiday Leave for Staff Employees.....	39
15.4 Shift Division – Holidays Observed and Floating Holidays.....	40
15.5 Sick Leave.....	41
15.6 Use of Sick Leave.....	41
15.7 Family Leave.....	45
15.8 Other Leave.....	45
ARTICLE 16 – DRUG TESTING.....	48
ARTICLE 17 – LIAISON MEETINGS BETWEEN CITY AND UNION.....	50
ARTICLE 18 - RETIRED FIREFIGHTERS.....	51
18.1 Identification Cards for Retirees.....	51
18.2 Group Health Insurance for Retirees.....	51
ARTICLE 19 – IAFF FIREPAC.....	52
ARTICLE 20 – INTERPRETATION AND CONSTRUCTION.....	53
EXECUTION PAGE.....	55

ADDENDUM A - WAGES.....A1
ADDENDUM B – FIRE LONGEVITY SCHEDULE..... B1
ADDENDUM C – LAWTON CITY CODE - CHAPTER 17 C1

EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into this First day of July, 2008, by and between the City of Lawton, Oklahoma, a municipal corporation and hereinafter referred to as the "City," and the members of the Bargaining Unit of the City of Lawton Fire Department, hereinafter referred to variously as "members," "employees" or "firefighters," acting by and through their duly authorized bargaining agent, Local 1882, International Association of Firefighters AFL-CIO/CLC, hereinafter referred to as "Bargaining Agent."

WITNESSETH:

ARTICLE 1

PURPOSE OF AGREEMENT

1.1. It is the intent and purpose of this Agreement, entered into by and between the City and the firefighters, and their bargaining agent, Local 1882, International Association of Firefighters AFL-CIO/CLC, hereinafter referred to as Bargaining Agent, to promote harmonious relations between the City and the employees; to recognize the right of the employees to be represented by a bargaining agent and to bargain collectively with the City concerning wages, hours, and other items and conditions of employment; and to provide for the equitable and orderly resolution of differences which may arise during the term of this Agreement; to insure the well-being of said employees; and to promote and further the efficient and economical operation of the Lawton Fire Department.

ARTICLE 2
RECOGNITION

2.1. The City recognizes IAFF Local 1882 AFL-CIO/CLC, hereinafter referred to as the Bargaining Agent, as the sole and exclusive Bargaining Agent for all permanent paid members of the Fire Department, except and excluding the Chief of the Fire Department, the Deputy Fire Chief (an Administrative Assistant), all civilian employees, and all entry level employees classified as “Probationary Firefighters” who have not completed basic firefighter training [i.e. recruits]. Upon completion of basic firefighter training, probationary firefighters shall be afforded the rights and privileges of this Agreement; however, probationary employees shall not be entitled to grieve disciplinary action under the provisions of Article 6 of this Agreement. The position of administrative assistant shall be determined by the City. All permanent employees or members of the Lawton Fire Department, excepting those above recited, shall individually and collectively be bound by, and have the benefit of, the terms and provisions of this Agreement.

2.2 For purposes of this Agreement, an entry level employee shall be classified as a “Probationary Firefighter” with rights as described herein for a period of twelve (12) months from the employee’s date of hire. Certification as a Firefighter I as well as EMT-B Licensure are required prior to completion of the employee’s probationary period. Failure to obtain said certifications shall constitute automatic grounds for dismissal. Upon successful completion of the probationary period, the “Probationary Firefighter” will be removed from probationary status, classified as a “Firefighter,” and placed in the appropriate pay grade and step as described in Addendum A.

ARTICLE 3

PREVAILING RIGHTS

3.1. All rules, regulations, fiscal procedures, working conditions, departmental practices and manner of conducting the operation and administration of the Lawton Fire Department currently in effect for and with respect to the members of said Fire Department on the effective date of this Agreement which are not included in this Agreement, shall remain in full force and effect, unchanged and unaffected in any manner unless and except as modified or changed by the specific terms of this Agreement.

ARTICLE 4

AUTHORITY AND TERM

4.1. The provisions of this Agreement shall take effect as of the 1st day of July, 2008, and shall continue in full force and effect until 11:59 p.m. on June 30, 2010 unless the City Council fails to appropriate monies in any fiscal year budget applicable to this Agreement for the payment of the indebtedness created by this Agreement for the next fiscal year.

4.2. In the event either party desires to enter into a contract to succeed this contract for the following year, they shall give not less than sixty (60) days' written notice to the other party of such intention. If it is the intent of such party to collectively bargain in regard to wages, rates of pay, or any other matters requiring appropriation of monies by the City, in which event not less than one hundred twenty (120) days' written notice shall be given as required by the Fire and Police Arbitration Act. However, should the City Council fail to fund the economic provisions of this Agreement in the 2009-2010 fiscal year budget, the 120 day notification period required of the Union shall be extended until thirty (30) days subsequent to the adoption of the budget for the applicable budget year.

4.3. Notice of termination or modification shall be in writing and shall be sufficient if sent by certified mail addressed, if to the Bargaining Agent, to President, Local 1882, P. O. Box 1255, Lawton, Oklahoma 73502; and if to Management, addressed to City of Lawton, City Hall, Lawton, Oklahoma 73501; or any other such address as Union or City may make available to each other.

ARTICLE 5

MUTUAL RESPONSIBILITY TO AVOID DISCRIMINATION

5.1. Neither the Employer nor the Union shall discriminate against any person on the basis of race, color, creed, religion, sex, size, age, national origin, veteran status, status of union membership, political affiliation or physical or mental disability in violation of any applicable federal, state or local law. Discrimination on the basis of physical and mental disability shall be deemed to include the failure to make or agree to reasonable accommodation to the known physical or mental impairments of and otherwise qualified individual with a disability. Specifically, pursuant to federal and state and local laws, each party is obligated to take positive action in affording equal employment, training and promotional opportunities to all members, as required by Title VII of the Civil Rights Act of 1964, and the Americans with Disabilities Act as they may be amended.

5.2. In the event that any portion of this Agreement unintentionally conflicts with the City's capability to be in compliance with said Act, the federal and state law will be overriding to that portion of this Agreement.

ARTICLE 6

GRIEVANCE PROCEDURE

6.1. The Union or any employee covered under this Agreement may file a grievance within fifteen (15) calendar days of the alleged occurrence of the event, or after an aggrieved party becomes aware of the event giving rise to the grievance and shall be afforded the full protection of this Agreement.

Grievances alleging a reduction or loss (for other than disciplinary reasons) of a member's pay, incentives, clothing or allowances may be filed at any time within 90 days following the date of reduction or loss, provided, however, any such grievance filed after 90 days shall not accrue interest after the 90th day. All such grievances, alleging a reduction or loss of a member's pay shall be filed within two years or be considered forever waived and barred. City must make all claims for overpayment to a member within 1 year of its occurrence.

6.2. The Union President, or his authorized representative, shall report an impending grievance to the Fire Chief in an effort to forestall its occurrence.

6.3. Any grievance between the City and the Union, or any employee covered by this Agreement, concerning the meaning, interpretation, enforcement, or application of this Agreement or any of the terms or provisions thereof, including any prevailing right or any other term or condition of employment, whether included in this Agreement or not, shall be adjusted in the manner hereinafter described.

6.4. All grievances shall be processed as hereinafter set forth.

a. Any grievance not initiated or taken to the next step within the time limits specified herein will be considered settled on the basis of the last answer by the City. A grievance not expressly denied by the City within the established time for answering shall be deemed denied by the City as of the last day of the stated time period for its answer, and the Union or the grieving employee must advance the grievance to the next step if the grievance is to be pursued, within the time limit established.

b. All time limits set forth in this Article may be extended by mutual consent of the parties, which must be reduced to writing. If not extended, the time limits must be strictly observed. If a party fails to pursue any grievance within the time provided, he shall have no further right to continue this grievance.

6.5. All grievances shall be processed in the following manner and within the stated time limits:

Step 1. The aggrieved employee or group of employees, with any IAFF representative if employee so desires, will present the grievance to the Fire Chief's office in writing. The grievance must be so presented within fifteen (15) calendar days of its occurrence, not including the day of occurrence. The Fire Chief or his designee shall give his answer within fifteen (15) calendar days of the date of presentation, not including the date of presentation. Such answer shall be in writing.

Step 2. If the grievance is not settled in Step 1, the Union's Grievance Committee shall have fifteen (15) calendar days after the Fire Chief's response is given, or within fifteen (15) calendar days of the time for an answer if no answer is given to review the grievance to determine whether or not a grievance exists. The make up of the Union Grievance Committee shall be determined by the Union. If the Union Grievance Committee determines, in its sole discretion and judgment, that a grievance does exist, then the grievance shall proceed to Step 3.

The aggrieved employee shall have seven (7) calendar days, after notification that the grievance was denied by the Grievance Committee, to appeal that decision in writing to the Union Executive Board. The Executive Board shall have ten (10) calendar days to render a decision. The grievance shall not be processed further if the Executive Board agrees with the Grievance Committee that a grievance does not exist.

Step 3. a. If the grievance is not settled in Step 2, the written grievance shall be presented to the City Manager within thirty-two (32) calendar days after the Fire Chief's response is given, not including the day the response is given, or within thirty-two (32) calendar days of the time for a response if no response is given. The grievance shall be presented along with all pertinent correspondence to date. The City Manager shall reply to the grievance within fifteen (15) calendar days of the date of the presentation of the written grievance, not including the day of presentation.

b. In the event of a grievance by the Union of a violation of a right given to the Union under this Agreement, or, in the event a grievance affects five (5) or more named individual firefighters, or, in the event a grievance involves meaning, interpretation or application of this Agreement, the Union may initiate its grievance at this step

(Step 3). A grievance by the Union in this step must be submitted in writing setting forth all details to the City Manager and the Fire Chief within the time limits specified in Article 6.1. The City Manager shall reply to said grievance within fifteen (15) calendar days of the date of presentation of the written grievance, not including the date of presentation.

c. City Grievances. Any grievance by the City against the Union shall be in writing to the Union President, and should be answered in writing within fifteen (15) calendar days of the presentation, not including the day of presentation. If a City grievance is not settled by the union's response, or should the union fail to answer, the City's grievance may be submitted to arbitration as hereinafter provided.

6.6. Arbitration. If the grievance is not settled and resolved by the foregoing steps, it may be submitted to impartial arbitration. Any of the parties to this Agreement may request such arbitration within the fifteen (15) calendar days from the receipt of the last written answer obtained from Step 3, above, or if no answer is given within fifteen (15) days of the expiration of the fifteen (15) day answer period.

6.7. A request for arbitration must be in writing. Within five (5) calendar days from receipt of request for arbitration, the party requesting Arbitration (City or Union only) shall request a list of seven (7) arbitrators from Federal Mediation and Conciliation Service with a copy of such list provided to the non-grieving party contact person. The request shall specify that the requested list of arbitrator's shall be drawn from the sub-regional area of the multi-state region applicable to the State of Oklahoma.

6.8. Within five (5) calendar days from receipt of such list, a representative of the Union and the City shall meet and alternately strike names until one (1) arbitrator remains who shall be selected as the impartial arbitrator. The party to strike the first name shall alternate from grievance to grievance.

6.9. Upon selection of an arbitrator the Federal Mediation and Conciliation Service and the selected arbitrator shall be notified. The date for the arbitration hearing should be set at the earliest available date the arbitrator has available to hear said grievance. Upon selection of a mutually agreeable date, all parties and arbitrator should be notified in writing.

6.10. At the conclusion of the arbitration hearing, post-hearing briefs may be filed at the request of either party or the arbitrator. The arbitrator shall comply with the rules of the FMCS as to his award and findings of fact.

6.11. With respect to the interpretation, enforcement, or application of the provisions of the Agreement, the decision, findings, and recommendations of the arbitrator shall be final and binding on the parties to this Agreement; however, the authority and responsibility of the City as provided by the Charter of the City of Lawton shall not be usurped in any manner unless specifically amended or modified by this Agreement.

6.12. The arbitrator's authority is strictly limited to the interpretation and application of the terms of this Agreement. The arbitrator shall have no jurisdiction to establish a new agreement or any variation or modification of the present Agreement, nor to arbitrate away, in whole or in part, any provision of this Agreement or any supplements thereto or amendments thereof. This shall not preclude individual wage grievances.

6.13. It is specifically and expressly understood that taking an appeal to arbitration constitutes an election of remedies and a waiver of any and all rights by the appealing party and all persons it represents to litigate or otherwise contest the appealed subject matter in any court or other forum. This Section shall not apply to the judicial enforcement of an arbitration award.

6.14. The costs, fees and expenses of the neutral or impartial arbitrator, selected to hear a grievance under this Article, shall be shared equally by the parties. Any other expenses incurred by the City or Union in the presentation of a grievance shall be borne by the party incurring the same. If a transcript of proceedings is requested, the party requesting the same shall pay for said transcript.

ARTICLE 7

PROHIBITION OF STRIKES

7.1. During the term of this Agreement, the Bargaining Agent agrees to a prohibition of strikes, work stoppage and slowdown.

7.2. For the purpose of this Agreement, "strike" shall mean the concerted failure to report for duty, the willful absence from one's position, unauthorized holidays, sickness unsubstantiated by a physician's statement, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, for the purpose of inducing, influencing or coercing a change of the conditions, compensation, rights, privileges or obligations of employment.

7.3. The Bargaining Agent and its members shall not in any manner coerce, intimidate, instigate, induce, sanction, suggest, conspire with, promote, support, sponsor, engage in, condone, or encourage any person to participate in any strike, slowdown, mass absenteeism, or any type of concentrated work stoppage, as prohibited by law.

7.4. Nothing contained in this Article shall be construed to limit, impair or affect the right of any employee to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of employment or their betterment, so long as the same does not interfere with the full, faithful, and proper performance of the duties of employment.

ARTICLE 8

MANAGEMENT RIGHTS

8.1. Bargaining Agent recognizes the prerogative of City to operate and manage its affairs in all respects and in accordance with its responsibilities; and the power of authority, which the City has not officially abridged, delegated, granted or modified, by this Agreement are retained by the City.

8.2 Except as otherwise limited in this Agreement, the City has the sole and exclusive right to exercise all the rights and functions of management; and the City retains all its rights in accordance with the Constitution and the laws of the State of Oklahoma and the responsibilities and duties contained in the City Charter of the City of Lawton and the ordinances and regulations promulgated there under. Without limiting the generality of the foregoing as used herein, the "management rights" of the City shall include, but are not limited to the following rights:

- a. To determine Fire Department policy, including the rights to manage the affairs of the Fire Department in all respects;
- b. To assign working hours, including overtime;
- c. To direct the members of the Fire Department, including the right to hire, terminate, suspend, discipline, promote, or transfer any Firefighter;
- d. To determine the table of organization of the Fire Department, including the right to organize and reorganize the Fire Department and the determination of job classifications and ranks based upon duties assigned;
- e. To establish, modify, or change work schedules, manning of apparatus, and amount of apparatus in the main or reserve fleet;
- f. To determine the safety, health, and property protection measures for the Fire Department;
- g. To allocate and assign work to Firefighters within the Fire Department;
- h. To transfer Firefighters from one house, district, or shift to another;
- i. To be the sole judge of the qualifications of applicants and to determine the policy affecting the selection or training of probationary employees;

- j. To schedule the operations and to determine the number and duration of hours of assigned duty per week;
- k. To establish, modify and enforce Fire Department rules, regulations and orders;
- l. To introduce new, improved, or different methods and techniques of operation of the Fire Department or change existing methods and techniques;
- m. To determine the amount of supervision necessary;
- n. To control the departmental budget;
- o. To schedule vacations, and determine and grant appropriate types of sick leave as necessary;
- p. To take whatever actions may be necessary to carry out the mission of the City in situations of emergency.

8.3. Except as specifically abridged, delegated, granted or modified by this Agreement, or any supplementary Agreement that may hereafter be made, all the rights, powers, and authority the City had prior to the signing of this Agreement are retained by the City and remain exclusively and without limitation within the rights of the City. The exercise of any such management rights or functions herein enumerated above shall be subject to the grievance procedures set forth in this agreement provided the grievance alleges the City failed to exercise its management rights in good faith, for the good of the service, and with just cause.

ARTICLE 9

UNION SECURITY

9.1. Bargaining Agent Business. A member elected as an officer of the Bargaining Agent or as a delegate to Union activity as it pertains to Bargaining Agent business may be granted a leave of absence with pay, providing such Union business is determined to be non-conflicting with the overall operational necessities of the Department. Written notice for such leave shall be forwarded to the Fire Chief at least seven (7) calendar days in advance for his approval, unless circumstances render the seven (7) calendar day notice period impractical, and then, written notice shall be given as soon as possible.

The City shall not discriminate against any member because of his duties as an association official, steward or committee member.

9.2. Stewards. Members of the Bargaining Unit shall be represented by one (1) steward on each shift at each sub-station, one (1) steward on each shift at Central Fire Station, and one (1) steward who will represent forty (40) hour a week personnel. The Bargaining Agent shall furnish the Employer a list of Stewards' names and their assigned areas and shall keep the list current at all times. Alternate stewards may be appointed by the Bargaining Agent's President to serve in the absence of the regular stewards.

Stewards may investigate any alleged or actual grievances in their assigned work area and assist in preparation and presentation. A steward shall be allowed reasonable time during the stewards normal work hours and without loss of pay, to conduct an investigation concerning a specific grievance, provided that the immediate supervisor of the steward gives prior approval.

Stewards may conduct other Bargaining Agent business during normal duty hours provided that such activities do not interfere with normal work assignment.

A Steward is authorized to be present with the member when the Fire Chief, Deputy Fire Chief or an Assistant Fire Chief intends to administer discipline equal to, or more severe than, a written reprimand. Unless the member shall direct otherwise in writing, a steward shall be given prior notice of the disciplinary proceeding and shall be allowed to be present with the member.

9.3. Grievances. The duly elected President of the Bargaining Agent and/or the Grievance Committee shall be granted adequate time without loss of pay during each of their

regularly scheduled shifts for the purpose of investigating and/or processing alleged or actual grievances from members of the Bargaining Unit, provided that the Fire Department operations are not impeded, and upon notification to, and approval by, the Fire Chief. Grievance Committee members who are off duty at the time of a Grievance Committee meeting shall be allowed time off for time actually spent in the meeting, but not to exceed two (2) hours per person per grievance. Time spent by off-duty Grievance Committee members will not be considered as time worked for the overtime provisions of the Fair Labor Standards Act.

9.4. Bulletin Boards. The Bargaining Agent may have a bulletin board within the fire station, its size and location subject to approval by the Fire Chief.

9.5. Dues Check-Off. The City agrees to deduct regular monthly Bargaining Agent dues from earned wages of those employees who are in the Bargaining Unit. The deduction shall be made from each paycheck in an amount certified to be current by the Secretary-Treasurer of the Local Bargaining Agent. A check for the total deductions will be mailed to the Secretary-Treasurer of the Bargaining Agent no later than fifteen (15) days after the deduction is made. Deductions will not be made from the earned wages of probationary firefighters. All members of the Bargaining Unit desiring payroll deduction of Union dues shall individually sign an authorization card, provided by the Bargaining Agent and approved by the City authorizing the stated monthly dues deduction be made. The payroll deduction shall be revocable by the employee notifying the City in writing. The Bargaining Agent shall be notified of any revocation. It is agreed and understood that the City will deduct the Oklahoma State Firefighters Association annual dues from the pay of all members of the Bargaining Unit. Members shall individually sign an authorization form authorizing the annual dues deduction to be made.

The City will deduct only Bargaining Agent dues from the employee's paycheck and will not deduct initiation fees, special assessments, fines, or any other deductions except for dues. In the event of an increase or decrease in Bargaining Agent dues, Bargaining Agent will give Employer thirty (30) days' notice in order to allow Employer to make the proper changes in its accounting records. No deductions will be made when the salary to be paid an employee is not sufficient to cover the amount to be deducted.

The City will provide the Bargaining Agent's Secretary-Treasurer with a detailed report showing individual employee name and deduction amount at the time of payment.

All deductions will be for the month in which they are taken. All deductions refundable at the time of termination or resignation will be refunded by the Bargaining Agent. The City will not be responsible for errors. In the case of error or if improper deduction is made by the City, a proper adjustment of the same shall be made by the Bargaining Agent with the employee affected.

9.6. Seniority. Seniority shall mean the status attained by length of continuous service in the Department. It shall commence from the date on which the employee is employed; however, until completion of the probationary period, the employee shall not attain seniority status. At the conclusion of his/her initial probationary periods, his/her probationary time shall be included as a part of overall seniority.

Employees shall lose their seniority status and time in grade status for the following reasons:

- a. Discharge, if not reversed;
- b. Resignation;
- c. Failure to return to work after expiration of formal leave of absence, or when recalled from layoff; and
- d. Retirement.

The City shall maintain a seniority and a time-in-grade list. These lists shall contain employees' names, date of employment, date of promotion, and job position. These lists shall be furnished the Bargaining Agent on June 30th of each year. The Bargaining Agent shall notify the City of any recommended corrections to the lists within ten (10) days from receipt thereof. Any changes shall be mutually agreed upon.

Time-In-Grade (T.I.G.) shall mean the status attained by the length of continuous service in a particular rank or position. It shall commence from the date and time on which the employee is promoted to a new rank or position. Time-In-Grade for Firefighters at the conclusion of the probationary period shall commence from the date on which the employee is employed upon completion of three years of service with the City as a firefighter.

Time-In-Grade shall not be considered for employees with less than three years of service with the City as a firefighter in making work assignments and transfers.

Time-In-Grade shall be considered in making permanent work assignments and transfers to fill permanent vacancies for employees with more than three years of service with

the City unless the Fire Chief determines that the needs of the service will suffer adversely, which determination will not be arbitrarily or capriciously made. T.I.G. shall be the first consideration when making transfers to fill temporary vacancies requiring persons to work out of classification. Temporary vacancies requiring persons to work out of classification would be filled by, first, having qualified persons at the station concerned move up. If this does not satisfy the requirement, the second consideration would be to then select the qualified person (on duty) with the most T.I.G. A supervisor may depart from the use of T.I.G. for selecting persons to work out of classification due to "needs of the service." However, upon request of the affected person, a supervisor who does not use an individual's T.I.G. shall notify the individual, in writing, explaining the reasons for this departure. For purposes of clarity, the promotion process is not considered a change in permanent work assignment, although a promotion may result in a change in a member's work assignment and location.

9.7. Promotional Appointments. All promotional appointments to a higher rank or job classification shall be subject to a probationary period of six (6) months from the date of appointment. At any time during this probationary period, the City Manager may demote a member whose performance does not meet the required work standards and management expectations. Any member on probation in a promotional appointment shall have the right to return to his previous position held immediately prior to his promotional appointment.

9.8. Personnel Reduction. In the case of a reduction, the employee with the least seniority shall be laid off first. In determining seniority for the purpose of personnel reduction, only time as a full-time employee in the Fire Department will be counted. Time in Grade will not be considered. No new employee shall be hired until the laid-off employee has been given the opportunity to return to work. The city's responsibility in this area is to make a reasonable effort to contact the laid-off employee to afford him/her that opportunity.

The President, Secretary-Treasurer, and three Vice-Presidents of the Bargaining Agent shall be retained in the City of Lawton fire service in the event of layoff, regardless of their positions on the seniority list, so long as there is work that they have the ability to perform in a firefighting capacity.

9.9. Regular and Special Meetings of the Bargaining Agent.

The Bargaining Agent membership may meet at reasonable times in a convenient place designated by the Fire Chief on the City's premises.

Elected Officers of the Bargaining Agent who are on duty at the time of a regular or special meeting of the Bargaining Agent will be allowed to attend such meeting without loss of pay. The officer will immediately return to duty at the conclusion of the meeting, or if called to duty by his supervisor. Off-duty members shall not be compensated for attendance at any regular or special meeting of the Bargaining Agent.

The Bargaining Agent shall be allowed to conduct regular or special meetings on the Employer's premises provided that such meetings do not impede the regular operation of the Fire Department.

9.10. Bargaining Committee. The City will compensate for not more than four (4) principal negotiators from the Bargaining Unit. The Bargaining Committees for either side will not exceed six (6) total. A principal negotiator participating in negotiations who is in an off-duty status at the time negotiations are held will be compensated at straight time and said time shall not be applied toward FLSA overtime.

a. The Bargaining Agent shall give the City, in writing, the names of the members of the Bargaining Committee provided that such members may be replaced or substituted upon prior notice to the City. The City will release all principal members of the Bargaining Committee who are on duty at the time of scheduled negotiations.

b. Each principal member of the bargaining unit committee will be granted no more than 80 hours per person beginning February 23rd through June 30th of each fiscal year. If the parties extend negotiations beyond the final date or reopen the contract during the contract year, the 80 hours will be reinstated.

9.11. Personnel Files. All personnel records for members of the Bargaining Unit concerning an investigation, complaint, reprimands, counseling sessions for violations of any rules, regulation or policy within the City or Fire Department or any other information or documentation which might be considered as being detrimental to the member's position, advancement or future with the Department, may be removed by the member, upon the approval of Personnel Director and/or Fire Chief, from the personnel file of the individual member three (3) years from the date of such investigation, complaint, reprimand, counseling session or documentation.

Such information and documentation shall not be subject to removal and destruction if it deals specifically with criminal charges under active investigation or unless the destruction of such documentation is contrary to state law requirements.

A member shall be allowed to review his personnel file, under appropriate supervision, at any reasonable time.

No person outside the member's supervisors and appropriate administration employees shall be allowed access to or information from the member's personnel file and records without first obtaining the written consent of the member.

9.12. Conversion Privileges.

a. Anytime a covered employee transfers from shift to staff, sick leave hours will be divided by the factor of 1.4.

b. Anytime a covered employee transfers from staff to shift, all vacation leave and sick leave hours will be multiplied by the factor of 1.4.

c. No other compensation or conversion of pay and/or benefits will be performed.

d. A covered employee transferred from shift to staff will be paid for all accrued hours of vacation leave shown on the benefit accrual record at the employee's shift hourly rate on the date of the transfer. An employee transferred from shift to staff may purchase vacation hours not to exceed the maximum number of accrued hours for staff employees as shown in Section 15.2 h of this agreement at the staff hourly rate for the position.

9.13. Back Pay Claims. Back pay claims shall be paid to any member when it is determined that he or she is entitled to such compensation. Back pay claims shall equal the amount of wages the member would have otherwise earned at his or her regular rate of pay plus interest as allowed on judgments against municipalities or ten percent (10%), whichever is greater, provided further that this provision shall not apply to increases negotiated and agreed upon during the term of this Agreement.

9.14. Maximum Productivity. The City and the Bargaining Agent agree to cooperate together to promote productive utilization of manpower and equipment to best secure for the citizens of Lawton the maximum productivity for the tax dollars they invest in fire services.

9.15. Destruction of Property. The City shall replace, or satisfactorily repair, at no expense whatsoever to the firefighter, any necessary physical aid or prosthetic device, such as eyeglasses, hearing aids, dentures, braces, and items of like nature that are suddenly and unexpectedly destroyed or damaged as a result of on-the-job activities by the said firefighter and that do not otherwise become unserviceable simply because of ordinary wear and tear.

In the event watches or jewelry belonging to a firefighter are suddenly and unexpectedly lost, damaged or destroyed as a result of on-the-job activities, the City shall replace or repair the same; provided, however, that the City's liability for the repair or replacement of each item of jewelry or each watch shall not exceed One Hundred Fifty Dollars (\$150.00).

Firefighters shall be required to furnish a written statement concerning the loss, damage or destruction of items of personal property, together with a written statement of its value or cost of repair. The City may require a firefighter to provide additional verification or validation of his claim it may deem appropriate in the circumstances.

9.16. Representation by Attorney. The City Attorney for the City of Lawton will represent any member sued for actions occurring within the scope of the member's employment with the City, time permitting, and unless legal or personal conflict exists. In any such case in which the City Attorney does not represent the member, the member may choose his own attorney, the City shall determine if the chosen attorney is qualified to represent the firefighter based on his experience. The City shall pay all reasonable attorney's fees for such representation. If the attorney requested is determined not to be qualified, then the City Attorney and Union President shall jointly choose another attorney to represent the firefighter and make the appropriate recommendations to the City Council.

9.17. Copies of Agreement. The City will provide to the Union: one (1) electronic copy on either a floppy disk or Compact Disc; one (1) copy for each member of the Union Executive Board, not to exceed eight (8); one (1) copy for each Fire Station; a read-only copy on the City's network, and a read-only copy on the City's Website. The City will provide said copies within thirty (30) calendar days from the date of execution by both the City and the Bargaining Agent Representatives.

9.18. Retirement Benefits. City and Union acknowledge that at the present time, base pay, incentive pay and other monetary benefits are used to calculate the pension and retirement benefits of the members. In the event the method by which such benefits are calculated is

changed, City and Union, to the extent legally possible, agree to cooperate fully to protect the interests of the members.

9.19. Work Schedule. The work schedule for shift members shall be as follows: one (1) day on, one (1) day off; one (1) day on, one (1) day off; one (1) day on, and four (4) days off. The work schedule for staff members shall be eight (8) hours per day five (5) days per week, for a total work week of forty (40) hours unless regularly scheduled otherwise. The City shall have the right to change or alter the work schedule of shift and staff members after giving the Union ten (10) days' notice, except in cases of emergency when no notice shall be required. The work period shall be defined as a period of twenty-seven (27) consecutive days for shift personnel and seven (7) consecutive days for staff personnel. The hours of work, duties and assignments, during a given work day shall be established by the Fire Chief. Following a weekday evening meal period the fire Chief may require that on duty members of the bargaining unit attend training classes. The training classes provided herein shall be on materials relevant to the members' duties and shall be held for a reasonable period of time, not to extend beyond 10:00 PM. Training may also be conducted on Saturdays between the hours of 9:00 AM and 5:00 PM.

9.20 Deferred Compensation.

Members of Local 1882 shall be afforded the option of making contributions into a deferred compensation program governed by the Internal Revenue Code 457. A company with an established program shall administer the deferred compensation program. It is however understood that the City of Lawton will make the IAFF Financial Corporation 457 Plan as either the sole option, or one of the options that bargaining unit members may participate in. Bargaining unit members will be entitled to transfer 457 Plan assets to the plan of choice.

ARTICLE 10

UNIFORM REQUIREMENTS AND MAINTENANCE ALLOWANCE

10.1. The Employer shall furnish uniforms and personal protective gear for members of the Bargaining Unit. A list of the items generally required is as follows:

SHIFT PERSONNEL	STAFF PERSONNEL
6 Nomex shirts * 6 Fire Wear Shirts	6 long sleeve white polyester dress shirts 2 BDU Shirts
6 Nomex pants * 6 Fire Wear Pants	6 short sleeve white polyester dress shirts 2 BDU Pants
1 white polyester dress shirt	10 pair black polyester dress pants
1 pair black polyester dress pants	1 black dress coat
1 black tie	2 black ties
1 black dress coat	1 black belt
1 black belt	1 Tuffy jacket
1 Tuffy jacket	1 ball cap w/LFD insignia
6 navy or white tee-shirts(long sleeve or short sleeve) w/LFD insignia	1 shirt badge
1 ball cap w/LFD insignia	1 coat badge
1 shirt badge	1 set collar insignia
1 coat badge	1 name tag
1 set collar insignia	1 pair of black dress shoes
1 name tag	5 navy or white tee-shirts(short sleeve) w/LFD insignia
2 pairs of shoes, athletic and/or dress or 1 pair of boots and 1 pair of shoes, athletic or dress	1 pair of athletic shoes 1 pair of steel toe and steel soled safety leather boots

Assistant Fire Chiefs will be issued the same uniform compliment as staff personnel.

Fire Marshal, Training Officer and uniformed personnel permanently assigned to their divisions will be issued the staff personnel uniform compliment.

The Fire Chief shall select promptly a qualified vendor for the uniform items listed.

City shall provide all items listed in this Agreement within a reasonable time from the date of any request by a member of the Bargaining Unit. Delivery of any such items after a request has been made therefore shall not exceed sixty (60) days, provided, however, that the sixty (60) day delivery time shall be suspended where delivery is prevented for reasons beyond the City's control, such as fire, strikes, lock-outs, Acts of God, vendor's inability to obtain material or shipping space, and the delays of carriers or suppliers. The Fire Chief shall determine the need based on the uniform criteria established by the Fire Chief.

(*) A firefighter may, upon the determination of the unserviceability of Nomex shirts or pants exchange the unserviceable Nomex shirt or pant for a Fire Wear shirt or pant.

10.2. Uniform Maintenance. In addition to the foregoing, the City shall pay to each member of the Shift Division (56-hour-a-week personnel) Twenty-Three Dollars and Fifty Cents (\$23.50) biweekly for the purpose of maintaining the member's uniforms in a manner required by the City. Members of the Staff Division (40-hour-a-week personnel) shall be paid the sum of Thirty Dollars and Ninety Cents (\$30.90) biweekly for clothing maintenance.

10.3 The wearing of uniforms shall be governed by the department uniform policy established by the Fire Chief. All uniform items, to include footwear (boot, shoes, and tennis shoes), shall only be replaced on an as-needed basis. The employee shall demonstrate to the Fire Chief or his designee the need for uniform item replacement. The Fire Chief or his designee shall have final determination before any uniform item is replaced.

ARTICLE 11

TRANSPORTATION ALLOWANCE

11.1. The City agrees to pay the standard rate for City employees, to any member required by the City to use his personal automobile to conduct the business of the City. Any employee using his personal automobile for City business must have current proper liability insurance and be able to show proof upon reasonable request.

11.2. The obtaining of food by a member using his personal vehicle is entirely voluntary. The use of a personal vehicle to obtain food is not City business. The provisions of Section 11.1 do not apply. No claim for mileage allowance will be accepted and/or paid by the City.

ARTICLE 12
INSURANCE

12.1. Employee and Dependents Group Health Plan.

A. Coverage. The City agrees to provide employees, and the employees' dependents, with a group health insurance plan that has the benefit coverage in effect as of July 1, 2008, with the following conditions and exceptions:

B. Premiums.

1. Members of the bargaining unit shall have the option of enrolling in the City's group health insurance plan or said members may elect not to participate in the City's group health insurance plan.

2. Employees covered by this Collective Bargaining Agreement will be responsible for the following deductibles and minimum bi-weekly share (26 pay periods) of health care premiums if the employee elects to participate in City's group health care plan:

Employee Only:	\$32.50
Employee & One Dependent:	\$132.23
Employee & Two Dependents:	\$135.73
Employee & Three or more Dependents:	\$140.73
Deductible (Each Person):	\$500.00
Deductible (Family):	\$1,500.00

3. The City shall contribute to the health plan on a bi-weekly (26 pay periods) basis the following health care premiums if the employee elects to participate in the City's group health care plan:

Employee Only:	\$127.50
Employee & One Dependent:	\$227.23
Employee & Two Dependents:	\$230.73
Employee & Three or more Dependents:	\$235.73

4. In the event the fund balance falls below \$200,000.00 the parties agree to the immediate implementation of a temporary ten percent (10%) increase to all premiums. Once the fund balance reaches and maintains a balance

above \$400,000.00 for ninety (90) consecutive days, the premiums will return to the original amounts listed above.

C. Out-of-Network benefit.

The City shall provide an out-of-network health care benefit at a rate of 70/30% of Medicare usual and customary charges with an out-of-network deductible of \$750.00 and no maximum out-of-pocket expense for out-of-network benefits.

D. Solvency Re-Opener.

The parties agree to re-open this item for negotiations to insure the solvency of the Employee Group Health and Benefit plan if the plan fund balance declines a total of ten percent (10%) of the previous quarter's fund balance during any three (3) consecutive month period and/or the plan fund balance falls below \$200,000.00.

E. General Fund Advances.

The Parties agree that should the city from the City General Fund advance to the Health Fund monies to keep the fund solvent that when the Health Fund balance reaches and maintains Five Hundred Thousand 00/100 Dollars (\$500,000.00) the Health Fund shall repay the City General Fund an amount not to exceed Ten Percent (10%) for each said calendar month until the City General Fund has been repaid. This provision is non fiscal.

F. Employee Health Plan Review Committee Re-Opener.

Due to the recognition of the AFSMCE bargaining unit it may at some point become necessary to modify the composition of the Employee Health Plan Review Committee. In the event the City determines such a need exists the parties agree to re-open negotiations for the sole purpose of reviewing and amending the composition of the Employee Health Plan Review Committee as set forth in Administrative Policy 3-9.

12.2. Accidental Death Benefit.

The City agrees to provide the members with an accidental death benefit in the amount of

Fifty Thousand Dollars (\$50,000.00), which shall be payable to a member's estate in the event a member is killed while on duty and in the performance of official duties, or dies later as a result of injuries incurred while on duty and in the performance of official duties. The City agrees that the accidental death benefit shall be paid in addition to any and all other benefits the member's estate is entitled to receive.

12.3. Continuation in Health Plan.

The City agrees to allow the spouse of a member who is killed while on duty and in the performance of official duties, or dies later as a result of injuries incurred in the performance of official duties, to continue without interruption in the City's Group Health Plan on the spouse and any dependent children, at the actual premium cost to the City. Upon the date of the spouse's remarriage, all health plan coverage will cease on the spouse, but will remain in full force and effect until premiums are discontinued or the dependent children exceed the age constraints prescribed in the City of Lawton sponsored health plan.

12.4. Flexible Benefits.

The members of the Bargaining Unit will be afforded an opportunity to participate in a flexible benefit plan, which may be offered by the City.

ARTICLE 13

WAGES, LONGEVITY PAY, INCENTIVES AND OVERTIME

13.1. Wages.

All Bargaining Unit members covered by this Agreement shall receive wages in accordance with the schedule in "Addendum A" attached hereto and made a part hereof.

13.2. Longevity.

A member hired on or after July 1, 2004 shall not be eligible for the longevity pay benefit, regardless of the member's length of continuous service with the City. A member hired prior to July 1, 2004 shall be entitled to longevity pay, which shall be based on the length of continuous service with the City. The member shall not be eligible for longevity until completion of four (4) years of continuous service. The maximum number of continuous years of service used in calculating this pay shall be twenty-one (21) years. The biweekly rate of longevity pay shall be determined by multiplying the member's annual length of service (not to exceed twenty-one (21) years) by \$5.90. The City shall pay longevity pay by last payday Friday in May beginning in 1997. (See Addendum "B").

13.3. Educational Assistance.

(1) Educational Incentive Pay. Any member receiving any Education incentive as of June 30, 2004 shall have said incentive frozen at the dollar amount the member was receiving on June 30, 2004 and paid bi-weekly. There shall be no increases or decreases in the dollar amount of the incentive. Any member employed by the Lawton Fire Department prior to June 30, 2004 and not receiving Education incentive pay on June 30, 2004 shall have eighteen (18) months to complete the requirements set forth in the FY-2003-2004 CBA for the educational incentive. Qualifying course work must be completed by the end of 2005 fall semester. Any member qualifying for the educational incentive after June 30, 2004 shall have the incentive frozen at six percent of the base salary rate they were receiving on June 30, 2004. Individuals who do not complete the required course work within the above-mentioned eighteen months or who are hired on or after July 1, 2004 shall not be eligible to receive Educational Incentive Pay and shall be subject to the following Educational Assistance Program.

(2) Educational Assistance Program. The City Manager is authorized to establish an educational assistance program to financially assist firefighters with educational opportunities.

A. Eligibility

1. The recipient must be a non-probationary employee.

2. Upon application to receive educational assistance, the firefighter's last performance evaluation must reflect an overall rating of standard or better.

3. The firefighter must receive a letter grade of "C" or above in college or university undergraduate courses, a grade of "B" or above in a graduate course or a certificate of satisfactory completion of a vocational education course.

4. Firefighters must research, apply for, and accept, if offered any state and/or federal financial assistance available such as scholarships, grants, Veterans Administration benefits, Bureau of Indian Affairs benefits and other similar programs.

B. Application and Processing

1. Eligible firefighters wishing to participate in the Educational Assistance Program must complete an application form for educational assistance for each course and forward the completed form to the Human Resources Department. The Fire Chief must sign and recommend approval for each request for educational assistance before the Human Resources Director shall consider the application.

2. Each application for educational assistance must be made two (2) weeks prior to the start of class. The following documents must be submitted with the application:

a. Student Aid Report (SAR) for current calendar year.

b. Financial Assistance Award Statement or other offer of proof from the academic institution that the student shall be attending that states the amount of education assistance received for each course.

c. Failure to provide a current SAR and Financial Assistance Award Statement or an acceptable offer of proof to the Human Resources Department shall disqualify the firefighter from receiving the educational assistance benefit from the City.

3. The Human Resources Department is responsible for processing

applications and reimbursements.

4. After satisfactory completion of the course and submission of required documentation, the City will reimburse the firefighter at the established percentage. The firefighter shall submit documentation of completion of the course as follows: certificate of satisfactory completion of the course or an official statement from the institution which indicates the actual grade received; and all receipts for tuition, from the institution.

C. Eligible Educational Expenses

Each eligible firefighter will be financially assisted at the following percentage for out of pocket tuition cost:

1. After satisfactory completion of the course and submission of documentation of tuition payment, the City will reimburse non-probationary firefighter an amount equal to sixty percent (60%) for a "C" or seventy-five percent (75%) for a "B" or above or satisfactory completion of the eligible out of pocket tuition costs for job related courses.

D. Criteria for Job Related Courses

1. A course must be directly related to the firefighter's current job assignment or a position that the firefighter could reasonably be expected to qualify for in the next three (3) to five (5) years. The Human Resources Director shall determine if a course is job related based on information provided by the applicant, Fire Chief and independent research results.

2. General education courses in fulfillment of a job related degree program may be eligible provided the firefighter has submitted an outline to the Human Resources Department of courses required and courses to be taken to satisfy the degree requirement. The Human Resources Director must approve the outline/course curriculum.

3. Eligible firefighters may be reimbursed for a maximum of twelve (12) college credit hours per semester not to exceed twenty-four (24) college credit hours, or equivalent, per contract year, if working towards a Bachelors Degree; a maximum of six (6) college credit hours per semester not to exceed twelve (12) college credit hours per contract year, if working towards a Masters Degree; one (1) vocational-technical course per trimester; or a combination of three (3) college hours and one vocational-technical course.

4. Distance learning, online and correspondence courses are eligible for the education assistance program provided that they meet the eligibility criteria for a job related course. The Human Resources Director shall determine the eligible tuition costs based on the hourly rate charged by local universities for traditional classroom based synchronous education.

F. Program Monitoring

The Human Resources Director shall monitor assistance to firefighters under the program and shall forward an annual report to the City Manager by January 15 of each year. A copy of the report shall be furnished to the Fire Chief.

13.4. Overtime. The City agrees that all members of the Bargaining Unit are eligible for overtime compensation. Overtime shall consist of authorized work in excess of 204 hours in the 27-day work period for shift personnel and 40 hours for staff personnel. Cleaning and stowing of personal effects following return from an emergency incident from which members have been relieved on site shall be authorized not to exceed 30 minutes. Overtime shall be computed to the nearest quarter (1/4) hour. Overtime shall be paid bi-weekly at one and one-half times the hourly rate based on the standard work period.

a. Shift members (56 hours a week) who are called back to duty for any reason at the request of the City after their normal tour of employment shall be compensated a minimum of two (2) hours of overtime or the hours actually worked whichever is greater unless such call back or hold over is for the purpose of attending a fire department committee meeting in which event said overtime credit shall be for hours actually worked.

b. Staff members (40 hours a week) who are called back to duty at the request of the City after their normal tour of employment shall be compensated a minimum of two (2) hours of overtime.

c. For purposes of computing overtime, a member absent from work on authorized leave (sick leave with pay, jury duty, holiday, vacation, emergency or conventions and schools) shall be considered to have worked his normal work schedule during such authorized absences.

d. All overtime shall be authorized by the Fire Chief or the on-duty Assistant Fire Chief, who shall determine the number of members needed. After the

determination for overtime personnel is made, the members from the off-duty shift who will not have duty the following day shall be called in first, except when the following day involves a given shift starting their four days off, then the shift working the following day will be called. In the event the overtime request is not filled by this method, members from the other off-duty shift, or any member on authorized leave, shall be called until the request for overtime personnel is filled.

e. A member's refusal to work overtime may be cause for disciplinary action, subject to due consideration for personal and/or family hardships.

f. Overtime work will be distributed as equally as practical among members in the same job classification within the Fire Department. Overtime hours for staff members shall be divided as evenly as practical.

13.5. Compensatory Time. The Fire Chief may authorize the use of compensatory time in lieu of overtime cash payment. A member who is asked to work overtime and is offered the option to choose between overtime pay or compensatory time shall be allowed to do so without prejudice. A member's selection of either overtime pay or compensatory time shall not affect his or her ability to receive the overtime.

A member's compensatory time off credit shall be computed at one and one-half (1 1/2) times the overtime hours worked by the member.

A member shall be allowed to accrue up to a maximum of one hundred twenty (120) hours. Any member who currently has more than one hundred twenty (120) hours of compensatory time banked will not be allowed to accrue more compensatory time until his/her total falls below one hundred twenty (120) hours.

A member shall only be allowed to exchange the compensatory time off credit for overtime pay upon separation from City service, resignation, death or retirement.

A member's request to take compensatory time off shall be subject to approval by the Fire Chief or his designee and for scheduling purposes it will be handled in the same manner as any other leave request. If less than four (4) employees are off on any given shift the member will be allowed to take compensatory time hours in any amount at his discretion.

Records will be kept to balance the overtime whether it be for compensatory time or cash to assure that overtime is equally distributed.

No compensatory time off will be scheduled to start later than 2200 hours and/or end before 0600 hours of the same shift. Two exceptions to this restriction are: (1.) In emergency situations, and (2.) If overtime or shifting of personnel between stations is not required to fill the vacancy created. No request to use compensatory time of less than two (2) hours will be approved.

13.6. Standby Pay for Fire Marshal. The City may require, on an alternating basis, the Fire Marshal and Assistant Fire Marshals, to stand by and be available for duty during their off-duty hours, the City shall pay the Fire Marshal or Assistant Fire Marshals at the rate of ten percent (10%) of his biweekly pay, whenever he is designated to be on standby duty.

13.7. Working Out of Classification. Working out of classification will mean an assignment of a member, for a limited period of time, to a higher position classification. Any shift member required to work in a higher classification during any given bi-weekly pay period shall be paid an additional \$1 per hour for each hour actually worked out of classification for the additional responsibility. Any staff member required to work in a higher classification for eight (8) hours or more of total accumulative service during any given bi-weekly pay period shall be paid for the additional responsibility an amount equal to two (2) additional hours at his present hourly rate for each eight (8) hours of accumulation. The provisions of this section do not apply to assignments to fill the temporary vacancy of Fire Chief.

Duration of acting assignment shall be determined by the needs of the service. Hours accumulated working out of classification shall not be considered as overtime hours in that no additional hours are worked.

13.8. Physical Fitness Incentive. The City and the union believe that it is mutually advantageous to establish a policy to enhance the physical fitness activities of the firefighters of the City of Lawton. The guidelines of this policy are as follows:

a. On July 1 of each year or as soon thereafter as possible the Personnel Director and Safety and Risk Officer shall determine the costs of service for workers' compensation, on-the-job injury leave, medical benefits, dental benefits and sick leave for the proceeding twelve calendar months for the firefighters and their covered families. Savings realized as a result of less on-the-job injury and sick leave usage is not included in the above determination.

b. During the month of April of each year the members of the fire department may at their option participate in the entry-level physical fitness agility test. Those firefighters that successfully complete the entry-level physical fitness agility test are eligible to receive a portion of the Physical Fitness Incentive. Successful completion is the minimum current passing score established by the Lawton Fire Department.

c. The Physical Fitness Incentive is determined by subtracting this current cost (see subsection 1 above) from the cost for the next preceding twelve months. If any savings was realized the City shall receive 25% of the savings and the Union will receive 75% of the savings. If there is no savings or an increase in cost is realized for the current twelve-month period when compared to the preceding twelve months, then in that event there is no incentive for that current twelve-month period and no funds will be disbursed to the Union. The maximum savings that may be distributed to the Union under this Incentive Program during any one fiscal year is \$75,000.00.

d. The City agrees to pay to the eligible firefighters their pro-rata share of the Physical Fitness Incentive, said share is to be determined by the Union, said payment of funds by the City on behalf of the Union subject to all applicable federal and state withholding. Eligible firefighters are only those firefighters who successfully complete the entry-level physical agility test in April of the then current year. Lawton Fire Department retirees are not eligible to receive the incentive.

e. This program is strictly voluntary in nature. If a firefighter desires to participate in said program, any activities he desires to participate in to insure his passing of the agility test is strictly voluntary. The agility test will be given over a two-week period. All firefighters who volunteer will take the test while on duty. No firefighter may take the test while on on-the-job injury leave or sick leave. The taking of the agility test is not mandatory and any firefighter who desires to take the test is doing so strictly as a volunteer. Firefighters are responsible for their own pre-test preparations and are participating in all activities in preparation for and participation in the Physical Fitness Incentive Program is a strictly voluntary basis. Overtime for any firefighter will not be utilized for any firefighters to take the agility test.

13.9. General. Compensation shall be paid no more than once for the same hours worked or for the same services provided under any provisions of this Agreement.

ARTICLE 14
REQUIRED TRAINING

14.1. Emergency Medical Technician

The Parties agree that it shall be a requirement of employment for each member of the Bargaining Unit to become an EMT-B. The City shall at its cost provide all required initial and refresher Emergency Medical Training within the Department or at the option of the City, the training may be provided by an OSDH approved training facility. The costs of all training, certificates, application fees, etc. shall be borne by the City. The City shall pay for all required refresher courses for EMT-B. Any Firefighter hired on or after July 1, 2004 shall obtain EMT-B certification during their probationary period if not obtained and submitted to the City prior to their hire date. Members while assigned to the Fire Marshal's division shall be exempt from said Emergency Medical Technician training requirement.

The City shall provide a minimum of two OSDH approved EMT-B refresher courses per year for the purpose of providing required EMT-B continuing education. Any Firefighter who has obtained EMT-B certification who fails to attend an OSDH approved EMT-B refresher course and subsequently loses their EMT-B certification status shall be placed in a temporary probationary status for a period of one (1) year pending recertification as an EMT-B.

However, any member who loses their EMT-B certification status as a result of no fault of their own shall not be subject to the aforementioned probationary status or any subsequent penalties and shall be afforded all opportunities to obtain EMT-B recertification at no cost to the member. If however, a member in this situation fails to obtain certification within 2 years of the date the certification was lost, he/she will lose Time-In-Grade rights as it relates to Assignment Preference Request (APRs).

A member who is placed in temporary probationary status shall not be eligible for call back overtime except as necessary in an emergency and shall be denied any annual merit step increases that may be due to the member. Furthermore, a member shall not be eligible for promotion while in temporary probationary status and will be removed from all promotional eligibility lists for the duration of the probation. If during the temporary probationary period a member fails to complete the requirements to obtain recertification the member's probationary status shall be extended an additional six (6) months and the member's pay shall be reduced one

step in his current pay grade and will remain in said pay step until recertified as an EMT-B. Upon recertification as an EMT-B said member shall be placed in his/her respective pay step and shall be eligible to receive his/her scheduled merit step increase. In addition, said member shall be placed back on the promotional list if applicable for promotional consideration. There shall be no payment for any loss of pay due to the temporary probationary period prior to the date of recertification.

14.2. Firefighter II Certification

The Parties agree that it shall be a requirement of employment for each member of the Bargaining Unit to obtain Firefighter II certification with the following exception; all members who have a minimum of ten (10) years of continuous service as of June 30, 2003 shall be grand fathered and will not be required to obtain Firefighter II certification. The City shall at its cost provide all required Firefighter II training. It shall be the responsibility of the City to ensure that all members are provided the required training to include: time off, course tuition, course materials, meals, and travel expenses for the purpose of meeting the certification criteria as set forth by OSU-Fire Service Training. Any new Fire Department Personnel hired on or after July 1, 2004 who fails to obtain his/her Firefighter II certification within three (3) years of his/her date of hire shall not be eligible for overtime callback, except as necessary in an emergency. Further, if said member fails to obtain his/her Firefighter II certification within four (4) years of his/her date of hire, said member's pay shall be reduced by one step and shall remain frozen at the reduced rate of pay until said member(s) obtains his/her Firefighter II certification. Upon receiving his/her Firefighter II certification the member(s) whose pay was reduced shall be restored to the step the member was in prior to reduction. Upon reinstatement, there shall be no payment for any loss during said period prior to the date of certification.

ARTICLE 15

LEAVES

15.1. Vacation Leave.

a. Vacation Leave - Staff. The City agrees that the Bargaining Unit members in the Staff Division (40 hour-a-week personnel) shall be eligible for vacation leave benefits on that date which is six (6) months after the completion of his/her probationary period. Accrual rates for staff members shall be based on the following schedule:

1. For one (1) through four (4) years of service, vacation leave shall accrue at the rate of three point zero seven seven zero (3.0770) hours per biweekly pay period or eighty (80) hours per year.

2. For five (5) through eight (8) years of service, vacation leave shall accrue at the rate of three point eight four six one (3.8461) hours per biweekly pay period, with a total of one hundred (100) hours per year.

3. For nine (9) through twelve (12) years of service, vacation leave shall accrue at the rate of four point six one five four (4.6154) hours per biweekly pay period, with a total of one hundred twenty (120) hours per year.

4. For thirteen (13) through sixteen (16) years of service, vacation leave shall accrue at the rate of five point three eight four six (5.3846) hours per biweekly pay period, with a total of one hundred forty (140) hours per year.

5. For seventeen (17) through twenty (20) or more years of service, vacation leave shall accrue at the rate of six point one five three nine (6.1539) hours per biweekly pay period, with a maximum of one hundred sixty (160) hours per year.

6. Members shall be deemed to earn vacation leave for any given biweekly pay period if they attain forty-four (44) hours credited service during that period; uncredited service is defined as leave without pay only.

b. Vacation Leave - Shift. The Employer agrees that the Bargaining Unit members in the Shift Division (56 hour-a-week personnel) shall be eligible for vacation leave benefits on that date of completion of the probationary period. Accrual rates for shift members shall be based on the following schedule:

1. For one (1) through four (4) years of service, vacation leave shall accrue at the rate of five point five three eight five (5.5385) hours per biweekly pay period, with a total of one hundred forty-four (144) hours per year.

2. For five (5) through eight (8) years of service, vacation leave shall accrue at the rate of seven point three eight four six (7.3846) hours per biweekly pay period, with a total of one hundred ninety-two (192) hours per year.

3. For nine (9) through twelve (12) years of service, vacation leave shall accrue at the rate of nine point two three zero eight (9.2308) hours per biweekly pay period, with a total of two hundred forty (240) hours per year.

4. For thirteen (13) through sixteen (16) years of service, vacation leave shall accrue at the rate of eleven point zero seven six nine (11.0769) hours per biweekly pay period, with a total of two hundred eighty eight (288) hours per year.

5. For seventeen (17) through twenty (20) or more years of service, vacation leave shall accrue at the rate of twelve point nine two three one (12.9231) hours per biweekly pay period, with a maximum of three hundred thirty six (336) hours per year.

6. Members shall be deemed to earn vacation leave for any given period if they obtain sixty-two (62) hours credited service during the biweekly pay period; uncredited service is defined as leave without pay only.

15.2. Use of Vacation Benefits.

a. A member may take vacation leave at his discretion, subject to the rules and regulations of the Lawton Fire Department.

b. Vacation leave must have the approval of the Fire Chief or his designee with the understanding that already approved leave will not be affected.

c. Vacation leave shall accrue on a biweekly basis and shall be credited each biweekly pay period.

d. One time a year choice (based on seniority) vacation leave must be scheduled in advance.

e. Seniority shall prevail when determining a member's priority for said vacation leave.

f. Employees, who separate or are terminated from City service for any reason, shall be paid for up to 280 hours of accrued vacation time for staff division members plus the current year's accrual and 504 hours for shift members plus the current year's accrual. Reimbursement shall be based on the member's hourly wage.

g. Maximum vacation credits as of the first full pay period in January of any year are as follows: 280 hours for staff employees; 504 hours for shift employees.

15.3. Holiday Leave for Staff Employees.

a. Staff Division members of the Bargaining Unit (40 hour-a-week personnel) shall be granted holiday leave, with pay, on the six (6) dates observed by the City as fixed holidays. The six (6) holidays granted to Staff Division members shall be as follows:

- New Year's Day
- Independence Day
- Memorial Day
- Labor Day
- Thanksgiving Day
- Christmas Day

The six (6) paid holidays above listed constitute the exclusive list of paid holidays granted to Staff Division members. In addition, the Staff members shall receive 40 hours of Flexible Holiday Leave time to be observed in accordance with the provision of Chapter 17, Section 162.D of the Lawton City Code as now written or as it may be amended in the future from time to time by the Lawton City Council.

b. In the event any of the six (6) listed holidays falls on a weekend, the following rule shall apply: if a holiday falls on a Saturday, the preceding Friday will be observed; and if the holiday falls on a Sunday, the following Monday shall be observed as a holiday.

c. In the event a fixed holiday occurs while a Staff Division member is on authorized sick leave or on vacation leave, the day shall not be charged against the member's sick or vacation leave.

15.4. Shift Division - Holidays Observed and Floating Holidays.

a. Based on the needs of the Fire Department and for reasons of public safety, it is recognized that members of the Shift Division (56 hour-a-week personnel) must be on duty whenever their shift assignments fall on a holiday recognized by the City. With respect to Shift Division personnel, the following six (6) dates are recognized as holidays, namely:

New Year's Day

Independence Day

Memorial Day

Labor Day

Thanksgiving Day

Christmas Day

Members who work on the six (6) above named holidays shall not be entitled to additional compensation or holiday pay. However, it is agreed the members of the Shift Division shall observe these six (6) holidays by working a reduced work schedule. On these six (6) holidays, Shift Division members shall maintain emergency equipment and answer emergency calls, but shall not be required to perform routine training. In the event any of the six (6) listed holidays falls on a weekend, the following rule shall apply: if a holiday falls on a Saturday, the preceding Friday will be observed; and if the holiday falls on a Sunday, the following Monday shall be observed.

b. In addition, members of the Shift Division shall be authorized two (2) floating holidays, which shall be used at the member's discretion in full shift increments, twenty-four (24) hour shifts, so long as the operations of Fire Department are not impeded by the member's absence.

c. If any floating holiday is not scheduled or taken by the member of the Shift Division prior to April 15, the City shall compensate the members of unused floating holiday time, with payment to be made on the first regular pay period in May. Compensation for unused floating holiday time shall be based on eleven point two (11.2) hours per floating holiday, with the hourly rate computed on basis of two thousand nine hundred twelve (2,912) hours divided into the annual salary of the individual members.

d. If a member of the Shift Division is terminated, he shall receive a prorated amount for the two (2) floating holidays. If a Shift member is hired after the effective date hereof, he shall receive a prorated amount for said holidays. If a member of the shift division retires during the first six (6) months of a fiscal year, he shall receive one (1) full floating holiday. If a shift member retires during the second six (6) months of a fiscal year he shall receive two (2) full floating holidays.

e. Probationary firefighters, upon completion of basic fire training shall be allowed to utilize said prorated, accumulated holidays subject to the conditions set out above.

15.5. Sick Leave.

Records of a member's sick leave shall be kept current by the City and will reflect earned sick leave in hours. The record will also indicate all sick leave taken.

Staff Division (40 hour-a-week personnel) shall accrue sick leave at the rate of three point six nine two three five (3.69235) hours per biweekly pay period. Staff members will be deemed to have earned sick leave benefits on any given pay period if they accrue forty-four (44) hours credited service during the biweekly pay period.

Shift Division (56-hour-a-week personnel) shall accrue sick leave at the rate of five point five three eight five (5.5385) hours per bi-weekly pay period. Shift members will be deemed to have earned sick leave benefits for any given pay period if they accrue sixty-two (62) hours credited service during the bi-weekly pay period.

Sick leave may accrue to a maximum credit of five hundred seventy-six (576) hours for Staff Division and eight hundred sixty-four (864) hours for Shift Division. Sick leave accrued in excess of this amount will continue to be credited to the record of the member. However, each year the member's sick leave accrual will be purged of any amount in excess of the above maximum in accordance with the provisions of 15.6f.

15.6. Use of Sick Leave. Authorized sick leave is defined in two areas: ordinary and on-the-job injury. Bona fide use of authorized sick leave shall not be used to detrimentally affect the members.

a. Ordinary. Ordinary sick leave shall mean illness of or off-duty injury to the member or the member's immediately family:

1. The member may use all his accrued sick leave, after which time he must use his annual leave or take leave without compensation. The manner in which additional time off will be allowed shall be the sole responsibility of the City Manager or designee.

2. For any period in excess of twenty-four (24) hours for Staff Division or forty-eight (48) hours for Shift Division of continuous absence, the City may require a doctor's certificate of illness prior to allowing the individual to return to work.

3. When Staff Division use forty (40) hours or Shift Division use seventy-two (72) hours of continuous sick leave, the City may require a physical prior to allowing the member to return to work.

4. The City may require the member to submit a doctor's certificate of illness or may require a physical examination, attesting to the necessity of the member being absent from work because of illness, if the member has taken twelve (12) individual (single) days of sick leave in the immediately preceding twelve (12) month period.

5. If the City has reason to suspect member is misusing sick leave privileges, the City may require the employee to provide a doctor's certificate of illness for future illnesses by providing written notice to the employee. The written notice shall specify the reasons for suspecting misuse of sick leave. Failure to provide the requested certification shall be grounds for disciplinary action.

6. Sick leave may be used by member in the event the member determines it is necessary to stay home with a sick child or to attend to any other member of the immediate family who is ill. Sick leave may also be used in the case of a death in the immediate family. If the member's absence due to caring for such family member exceeds the times set out in 2, 3, 4 or 5, above, the City may require similar evidence of illness or physical condition to be provided regarding the member of the immediate family. "Immediate family" shall mean the spouse, children, mother, father, father-in-law, sisters, brothers, mother-in-law, stepmother, stepfather, stepchildren, grandchildren of the employee only, and grandparents of the employee only. It shall also include any guardian who raised the employee in the guardian's home.

b. On-the-Job Injury.

1. A member who is injured while on authorized duty doing authorized job duties, or engaged in performing firefighting functions, shall be entitled to non-chargeable on-the-job injury leave for the period he is actually certified by a qualified physician, but in no event shall the non-chargeable injury leave period exceed twenty-six (26) weeks.

2. In addition, during the above period, Worker's Compensation payments due the member shall be supplemented, without charge to sick leave or annual leave, by the difference between Worker's Compensation and the member's normal weekly earning, excluding overtime.

3. In the event a member receives any sick leave (on-the-job, emergency and normal illness) compensation and subsequently such member is awarded Worker's Compensation for the same period of time, the member shall reimburse the City for such amounts received as sick leave compensation and the City shall credit the member's sick leave accrual with the number of days so used as sick leave.

4. In the event a member is unable to work at the end of the above period, the member may choose to supplement the workers compensation total temporary disability payment with accrued sick leave. If sick leave is not available, supplemental payments may be charged to vacation leave. If sick leave and vacation leave is not available, his continued absence will result in either disability retirement or there will be no supplemental payments and the member will be on leave without pay status. The determination of his status shall be the sole responsibility of the City Manager or designee.

c. Report of Illness. If a member becomes ill and cannot report for work, he must contact his supervisor no later than his regular reporting time, unless otherwise instructed by the Fire Chief or his designee. Failure to report within such time will cause the absence to be charged to leave without pay. Emergency situations, which might prohibit compliance with reporting shall be taken into consideration by the Fire Chief or his designee.

d. Sick Leave Accrual on Leave Without Pay. Employees on an authorized leave of absence without pay in excess of forty (40) hours for Staff Division or fifty-six (56) hours for Shift Division shall not accrue sick leave benefits during said absence.

e. Intemperate Habits. Sickness, disease, or disability caused by intemperate habits or immoral conduct shall not be chargeable to sick leave.

f. Payment for Excess Sick Leave. A member accrues current sick leave to a maximum of five hundred seventy-six (576) hours for Staff Division and eight hundred sixty-four (864) hours for Shift Division. Each year current sick leave accrual in excess of the above maximum amounts may be redeemed in the form of additional bonus compensation, as follows:

1. For Staff Division, the payment will be computed on the basis of two thousand eighty (2,080) hours divided into the annual salary of each member times the number of hours in excess of the above maximum credit.

2. For Shift Division, the payment will be computed on the basis of two thousand nine hundred twelve (2,912) hours divided into the annual salary of each member times the number of hours in excess of the above maximum credit. Payment will be made by the first non-payday Friday in December.

g. Compensation for Current Sick Leave Upon Voluntary Resignation. Upon voluntary resignation of a member, current sick leave may be redeemed in the form of additional bonus compensation utilizing the following scale:

1. For the amount of excess current sick leave hours between 0-192 hours for Staff Division and 0-288 hours for Shift Division at the rate of twenty-five percent (25%) of current hourly rate of pay.

2. For the amount of excess current sick leave hours between 193-384 hours for Staff Division and between 289-576 hours for Shift Division at the rate of fifty percent (50%) of current hourly rate of pay.

3. For the amount of excess current sick leave between 385-576 hours for Staff Division and between 577-864 for Shift Division at the rate of seventy-five percent (75%) of current hourly rate of pay.

4. For the amount of excess current sick leave above 576 hours for Staff Division and above 864 hours for Shift Division at the rate of one hundred percent (100%) of current hourly rate of pay. Sick leave cannot be used as terminal leave.

h. Compensation for Sick Leave Upon Termination. A member, upon termination, shall not be paid for any unused sick leave hours accrued.

i. Compensation for All Sick Leave Upon Retirement. The member shall be paid for all current sick leave up to 576 hours for Staff Division and 864 hours for Shift Division at the rate of seventy-five percent (75%) of his hourly rate at the time of his retirement. Current sick leave accrual in excess of the aforementioned amounts shall be paid at the rate of one hundred percent (100%) of his hourly rate at the time of his retirement. Upon the death of member while employed with the City, the estate of the member shall be paid for all unused sick leave, both historical and current combined together, at the rate of one hundred percent (100%) of the member's hourly rate at the time of his death.

j. Communicable Diseases. Because many diseases are communicable, the Fire Chief or his designee may require a member to go home if, in his opinion, the member is not only jeopardizing his own health, but also greatly increasing the possibility of affecting the health of other members. Such absence will be charged against accrued sick leave if available and, if not, it will be charged as leave of absence without pay.

15.7. Family Leave. The provisions for family leave of the Lawton City Code, Section 17-164, or as may hereafter be amended by the Lawton City Council, are incorporated herein as if set out in full.

15.8. Other Leave.

a. Military Leave. Covered employees who are members of the National Guard or military Reserve Forces of the United States shall be entitled to military leave of absence pursuant to Oklahoma Statutes, Title 44, §209, Title 72 §48 and the provisions of the United States Code, Title 38, §4311 et seq. Placement of the covered employee in a position with the City, upon return from military service and proper application for re-employment shall be in accordance with United State Code, Title 38, §4313.

b. Leave Without Pay. Leave without pay must be approved by the City Manager or designee who shall be the sole determinate of the length of such leave. No leave will be granted per this subsection for the purpose of enabling members to accept temporary employment with any other employer.

c. Leaves for Training. The City may grant such leave with pay, together with necessary travel and expense allowances as deemed proper and provided for in the City's budget, to permit members holding permanent positions to attend conferences, schools, workshops, seminars, and similar events designed to improve their knowledge and efficiency and considered as being beneficial and in the best interest of the City.

d. Leaves, Conferences and Conventions. The City will grant leaves of absence with pay for two (2) members, for the time actually spent at the convention up to a maximum of three (3) shifts, when said members are selected to attend the annual convention of the International Association of Firefighters. The City will grant leave for up to eight (8) official delegates selected from the membership of the Union, for up to three (3) calendar days, for said members to attend the annual convention of the Professional Firefighters of Oklahoma and up to eight (8) delegates for the Oklahoma State Firefighter's Association annual convention. Leave for such conventions shall be requested in advance and granted provided the absence of those delegates does not adversely affect the needs of the service. Members designated to attend such conventions will be allowed reasonable travel time to and from the convention location with pay, upon notification and approval of the Fire Chief.

e. Civic Duty.

1. Members who are required by due process of law to render jury service or court services shall receive their regular pay from the City for all working time lost up to the number of hours of the member's regularly scheduled work week. For purposes of clarification "court services" shall not include any matter in which a member is a named party in a lawsuit, whether civil or criminal, unless otherwise job related.

2. All members qualified and entitled to vote in any election shall, when necessary, be allowed sufficient time off with pay to exercise this privilege in accordance with Oklahoma Statute, Title 26, §7-101.

f. Bereavement Leave. In addition, the City Manager or designee may, upon recommendation of the Fire Chief, grant leave with pay, for not more than twenty-four (24) hours for Staff Division and forty-eight (48) hours for Shift Division, in case of the death of a member of the immediate family for the purpose of attending to matters related to not more than two (2) deaths per contract year, for a total of forty-eight (48) hours and ninety-six (96) hours,

respectively, maximum per firefighter per contract year. This absence will not be chargeable against accrued sick leave.

ARTICLE 16
DRUG TESTING

16.1. It is agreed that efficiency and safety in the work place is necessary and required in order to carry out the mission of the Fire Department. Therefore, it is understood that the use of alcohol, drugs, or other controlled substances by members of the bargaining unit without proper prescription or other authorization while on duty or in the work place is detrimental to the operation of the Department and is clearly prohibited by this Agreement and the rules and regulations of the Fire Department.

The Union agrees to allow the City to implement its policy, with the appropriate safeguards for a firefighter that will require any firefighter to submit to a recognized alcohol test if any supervisor has reasonable suspicion that the officer reported for duty or is under the influence of alcoholic beverages while on duty. As state or federal statutes or regulations allow random, post accident or periodic testing, the Union agrees to allow the Department to implement its policy which is in conformance with the state, State Statute Title 40, Chapter 15, Section 551 et seq., Standards for Workplace Drug and Alcohol Testing Act, or federal statutes or regulations. The City, at its option, is authorized to initiate random drug testing on the members of the bargaining unit. Such random testing shall be conducted one time during each of the four quarters of a contract year (i.e. four times per contract year). The respective date of the random test for each quarter shall be the sole determination of the City, without advance notice to the union or members of the bargaining unit. Each quarterly testing session shall be comprised of a random pool not to exceed ten percent (10%) of the members.

16.2. It is further agreed that the parties will work toward development of a program of awareness and education of the danger and effects of drug and alcohol abuse. The Union further agrees to support and work with the City in its endeavors in implementation of a drug and alcohol rehabilitation program, as well as encouraging the participation of bargaining unit members who could be aided by such program. The City may establish an Administrative Drug Testing Policy subject to the conditions contained in this Agreement.

16.3. The Union also acknowledges and recognizes the right of the City to investigate possible alcohol or drug abuse by bargaining unit members, in accordance with State Statute Title 40, Chapter 15, Section 551 et seq., Standards for Workplace Drug and Alcohol Testing

Act, to require employees to submit to various specified, approved and recognized medical procedures, in accordance with proper procedure and applicable law, as well as the terms of this Agreement. In this regard, it is understood that the City shall adequately train its supervisory personnel who have authority to investigate the reasonable suspicion standard in detecting symptoms and effects of alcohol and/or controlled substance abuse.

16.4. Any employee who is tested under the provisions of this Article and whose initial test shows a positive result, such result shall be confirmed by a follow-up, more extensive test. No disciplinary action may be taken unless the initial positive result is confirmed by a second positive finding pursuant to the more extensive testing procedure. A positive result on the second test does not imply that disciplinary action will automatically be taken, but only that an employee may then be subject to disciplinary or other appropriate action. A portion of the original sample must be retained for a period of one (1) year for confirmation at a later date, if requested by the employee. Any additional confirmation tests requested by the employee on the original sample must be paid for by the employee.

16.5. While it is understood that the Union is unequivocally opposed to the use of alcohol or drugs in the work place as well as the abuse of such substances under any conditions, and further agrees to cooperate toward the prevention of such abuse and strongly supports the prohibition of the use of drugs or alcohol in the workplace and the proper enforcement of the Department's rules and regulations, the Union, as the Bargaining Agent of employees covered by this Agreement, in no way relinquishes its rights and obligations to fairly and properly represent any aggrieved member of the bargaining unit by reason of the application of this Article, including but not limited to what the Union may consider as unwarranted or unreasonable investigations, search, or the imposition of discipline.

16.6. If State or Federal law allows, or if grant funds are contingent upon Random Drug Testing, the Union agrees to allow the City to implement its policy which is in conformance with the state, State Statute Title 40, Chapter 15, Section 551 et seq., Standards for Workplace Drug and Alcohol Testing Act, or federal statutes or regulations.

ARTICLE 17

LIAISON MEETINGS BETWEEN CITY AND UNION

17.1. The City and the Bargaining Agent to agree meet and confer on matters of interest upon the written request of either party. The written request shall state the nature of the matters to be discussed and the reason(s) for requesting the meeting. Discussion shall be limited to matters set forth in the request, but it is understood that these liaison meetings shall not be used to renegotiate this Agreement. Liaison meetings shall be held within ten (10) calendar days of the receipt of the written request and shall be held between 8:00 a.m. and 5:00 p.m. at a time designated by the City and at a place which is mutually agreeable to the parties. Each party shall be represented by not more than four (4) persons at liaison meetings.

17.2. The Bargaining Agent representatives may meet at a reasonable and convenient place designated by the City on the City's property, for a period not to exceed one-half (1/2) hour immediately preceding a meeting for which a written request has been made.

17.3. Member representatives of the Bargaining Agent who are on duty at the time of liaison meetings will be paid by the City for time spent in liaison meetings, but only for the straight time hours they would otherwise have worked on their regular work schedule. For the purpose of computing overtime, time spent in special meetings shall be considered as hours worked to the extent of the regular work schedule hours, which they otherwise would have worked. Under no circumstances shall an off-duty member be eligible for pay for attendance at a liaison meeting between the City and Union.

17.4. Off-duty representatives of the Union shall be given compensatory time off not to exceed eight (8) hours during the term of this Agreement for the time spent in these liaison meetings. Such compensatory time shall be equal to the amount of time actually spent in the meeting.

ARTICLE 18

RETIRED FIREFIGHTERS

18.1. Identification Cards for Retirees. The City agrees to allow a firefighter, upon retirement, to retain the City of Lawton Fire Department identification card, which card shall designate that the firefighter is retired.

18.2. Group Health Insurance for Retirees.

a. Retired Firefighters. The City agrees to allow a firefighter upon retirement to continue, without interruption, the City's Group Health Insurance plan on the retiree and his eligible dependents at the actual premium cost to the City.

b. Spouse of Deceased Firefighter. The City agrees to allow the spouse of a retired firefighter who dies to continue, without interruption, the City's Group Health Insurance plan on the spouse of the deceased retiree and any qualified dependent children, at the actual premium cost to the City, provided the spouse does not remarry. In the event the spouse of the deceased firefighter remarries, participation in the City's health plan shall be terminated.

c. Deduction of Premiums. Upon written authorization executed by retired firefighter or the spouse of a deceased retiree, the City shall cause to be withheld from a retired firefighter's, or a deceased firefighter's, spouse's monthly pension benefit the monthly premium for the City Group Health Insurance plan in the event the retired or the retiree's spouse elects to continue such health coverage at spouse's own expense. If the State of Oklahoma Fire Pension and Retirement System ceases making said deduction, upon notification of said event the parties hereto shall as soon thereafter as possible, reopen negotiations on this issue.

ARTICLE 19
IAFF FIREPAC

19.1. IAFF FIREPAC.

Members of Local 1882 shall be afforded the option of contributing a portion of their pay to IAFF FIREPAC by payroll deduction. IAFF shall reimburse the City for the actual cost for the payroll deduction, if any. Such contributions shall be subject to the following conditions:

- a. A signed contribution sheet/card shall be kept on file by Local 1882.
- b. Contribution cards shall reflect the amount authorized to be deducted by the members.
- c. The City shall forward said deductions to the IAFF FIREPAC monthly.

ARTICLE 20

INTERPRETATION AND CONSTRUCTION

20.1. If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable.

20.2. During the negotiation of this Agreement each party has had an opportunity to make proposals concerning all matters subject to bargaining, and this process has resulted in the terms and provisions of this Agreement. All bargaining and negotiations prior to the effective date of this Agreement are merged into the terms and provisions hereof and this Agreement constitutes the full, complete understanding and agreement of the parties. No term or provision of this Agreement shall require either the City or the Bargaining Agent to renegotiate or amend any term or provision of this Agreement. All amendments to this Agreement must be in writing.

20.3. All amendments to this Agreement shall be numbered, dated, and signed by the Employer and the Union, and shall be subject to the provisions of this Agreement unless the terms of said amendments specifically delete or change a provision of this Agreement; and all amendments shall become part of this Agreement as if specifically set forth herein.

20.4. Any appendices or addenda to this Agreement shall be numbered or lettered, dated and signed by the Employer and the Bargaining Agent, and shall be subject to the provisions of this Agreement unless the terms of said appendices specifically delete or change a provision of this Agreement; and all appendices shall become part of this Agreement as if specifically set forth herein.

20.5. The failure of either the City or the Bargaining Agent (or its members) to insist upon the performance of a specific section or provision of this Agreement shall not constitute a waiver or relinquishment of the right to demand or require future performance in any subsequent or future proceeding.

20.6. All Memorandums of Understanding signed by the parties hereto prior to July 1, 1994 shall have no force and effect from and after said date. Said Memorandums of Understanding have either been incorporated herein or a determination has been made by the parties hereto that said Memorandums of Understanding have been superseded by this and prior

agreements. Memorandums of Understanding by and between the parties resolving individual grievances are not affected by this provision. Said Memorandums of Understanding settling individual firefighter grievances shall expire when said issue has been successfully and finally resolved.

20.7. Unless specifically modified herein the provisions of Chapter 17, Personnel Policy and Procedures of the Lawton City Code as attached hereto and identified as Addendum “C”, including regulations or policies issued pursuant thereto as they exist on the date of the adoption of this Agreement are incorporated herein as if set out in full in this Agreement. It is understood, however, this Agreement by its specific term, supersedes any and all provisions of Chapter 17 of the Lawton City Code that are in conflict with this Agreement. However, the following provisions are excluded from the attached Addendum “C”, specifically:

- a. In Section 17-1-7-171(A)(7), the words “or off” shall be excluded;
- b. In Section 17-1-7-171(A)(14), “Arrest for or” shall be excluded,
- c. In Section 17-1-6-163 Paragraph (D) (Ordinary Sick Leave), subsections (9), (10), (12) and (13) shall be excluded;
- d. In Section 17-1-6-163 Paragraph (E) (On the Job Injury Leave), subsection (4), the last line shall be excluded that states “While an employee is in on the job injury leave status or receiving TTD benefits they will not pursue other employment or receive compensation for employment by an alternative source.”;
- e. In Section 17-1-6-163 Paragraph (E) (On the Job Injury Leave), subsection (9) is excluded;
- f. Section 17-1-6-168 (Administrative Leave) is excluded;
- g. Division 17-3-4 (Regular Employee Retirement System) is excluded in its entirety;
- h. Section 17-2-11-243 (Furlough) is excluded from this agreement.

EXECUTION PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this _____ day of _____, 2008, on which date said Agreement was adopted and approved by the City Council of the City of Lawton.

CITY OF LAWTON, OKLAHOMA

By: _____
JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK

LOCAL 1882, INTERNATIONAL
ASSOCIATION OF

FIREFIGHTERS

By: _____
President

By: _____
Secretary-Treasurer

ATTEST:

Vice President

Vice President

Vice President

APPROVED as to form and legality this _____ day of _____, 2008.

JOHN H. VINCENT
City Attorney

2008-2010 Bargaining Members

For the City

Jim Scholes

Dewyane Burk

Tim Wilson

For the Union

Peter Martin

Daryl Nobis

Bruce Kizarr

Robbie Bay

Josh Hall (Alternate)

Mike Clark (Alternate)

ADDENDUM A WAGES

1. An entry-level employee classified as a “Probationary Firefighter” shall be placed in Pay Grade 8, Step A. Until completion of basic firefighter training probationary firefighters shall have none of the rights and privileges afforded by this Agreement. As a Probationary Firefighter, the firefighter shall not be entitled to grieve disciplinary action, if any, under the provisions of Article 6 of this Agreement. Upon completion of the probationary period to include six (6) months in Pay Grade 8, Step A and six months in Pay Grade 8, Step B; and a satisfactory rating by the firefighter’s supervisors and the Fire Chief, the Probationary Firefighter will be reclassified as a Firefighter or terminated for unsatisfactory performance. Once a “Probationary Firefighter” has been re-classified as a “Firefighter”, he/she shall be placed in the appropriate pay grade in the same step he or she was at in the previous grade with all the rights and privileges afforded by this Agreement. A Probationary Firefighter with Firefighter II Certification shall advance directly to Pay Grade 10, Step C upon completion of the probationary period.

2. Except as provided in the above paragraph (paragraph 1) of this Addendum, members shall receive wages according to their positions as reflected by schedule below. Reviews for merit step increases shall be conducted after serving six (6) months in Step A, six (6) months in Step B, one (1) year in Step C, one (1) year in Step D, Step E, Step F, Step G, Step H, Step I (and Step J after it becomes effective July 1, 2009). To be eligible for said merit increase, each member must have received an overall rating of standard or above on the last employee performance evaluation. In the event of the promotion of a member to a higher position classification, said member shall be placed in the new classification as appropriate, but in no event shall the step reflect less than a five percent (5%) bi-weekly increase above his previous bi-weekly wage including bi-weekly incentives.

Notwithstanding the aforementioned language on merit step increases, the following exception applies: Under this contract the grade for Assistant Fire Marshal and Assistant Training Officer has increased from Grade 29 to Grade 31. Likewise the grade for Fire Marshal and Training Officer has increased from Grade 36 to Grade 39. To effectuate this change in grade these staff employees will be moved to the lowest appropriate step in their new pay grade that does not result in a loss of pay. However, any of these staff employees previously

stepped out in the fiscal year 2007-2008 pay chart (i.e. in the highest step of their grade in the FY 2007-2008 pay chart) will not receive a step increase in fiscal year 2008-2009 due to this shift in grades.

3. This pay plan is based on a twenty-seven (27) day work period for shift employees and a seven (7) day work period for staff employees. Regular time pay is compensation for all hours worked. Premium time pay shall be paid on all hours worked in excess of the limits imposed in the Fair Labor Standards Act as appropriate for the work indicated.

Members will be placed in the appropriate grade as reflected by their job classification as follows:

OPERATIONS DIVISION

CLASSIFICATION/RANK	GRADE	COLLAR
INSIGNIA		
Probationary Firefighter	8A & 8B	Silver LFD
FIREFIGHTER	08	Silver LFD
FIREFIGHTER (with FF2 Certification)	10	Silver LFD
APPARATUS DRIVER	13	Silver Chevron
LIEUTENANT	16	(1) Gold Bugle
CAPTAIN	20	(2) Gold Parallel Bugles
**ASSISTANT FIRE CHIEF	27	(3) Gold Crossed Bugles

PREVENTION DIVISION

CLASSIFICATION/RANK	GRADE	COLLAR INSIGNIA
* INSPECTOR-INVESTIGATOR/SEARGENT	29	Silver Chevron
ASST. FIRE MARSHAL/LIEUTENANT	31	(1) Gold Bugle
* DEPUTY FIRE MARSHAL/CAPTAIN	34	(2) Gold Parallel Bugles
FIRE MARSHAL/MAJOR	39	(2) Gold Crossed Bugles

TRAINING DIVISION

CLASSIFICATION/RANK	GRADE	COLLAR INSIGNIA
*EMS-SAFETY OFFICER/SEARGENT	29	Silver Chevron
ASST. TRAINING OFFICER/LIEUTENANT	31	(1) Gold Bugle
*DEPUTY TRAINING OFFICER/CAPTAIN	34	(2) Gold Parallel Bugles
TRAINING OFFICER/MAJOR	39	(2) Gold Crossed Bugles

* These classifications/ranks are listed for future organizational growth and are for informational purposes only. Therefore, it should be noted that these positions will not be filled unless qualifications for these positions are negotiated by the bargaining agent and approved and funded by Council action.

** This proposal modifies the titles of the Assistant Fire Chief and the Deputy Fire Chief structure in effect on June 30, 2008. Under this proposal the June 30, 2008 Assistant Fire Chief rank becomes known as a Deputy Fire Chief and the June 30, 2008 Deputy Fire Chief rank becomes known as Assistant Fire Chief. Under this contract: the Deputy Fire Chief is the chief's assistant that by state statute is excluded from the bargaining unit and said Deputy Fire Chief outranks the Assistant Fire Chiefs, the latter of which are included in the bargaining unit. Any references throughout this contract to these two ranks shall be adjusted accordingly to reflect this change.

CITY OF LAWTON FIRE SALARY SCHEDULE AS OF JUNE 30, 2008 THROUGH JUNE 28, 2009

GRADE	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	STEP H	STEP I
1	8.70	9.13	9.59	10.05	10.56	11.09	11.65	12.23	12.85
2	8.90	9.34	9.82	10.30	10.82	11.36	11.93	12.54	13.17
3	9.12	9.58	10.04	10.55	11.08	11.63	12.22	12.85	13.50
4	9.35	9.83	10.31	10.83	11.37	11.94	12.54	13.16	13.84
5	9.58	10.04	10.55	11.08	11.64	12.22	12.83	13.50	14.17
6	9.83	10.30	10.82	11.36	11.93	12.51	13.14	13.84	14.54
7	10.04	10.56	11.08	11.64	12.22	12.83	13.47	14.18	14.89
8	10.31	10.84	11.37	11.95	12.54	13.16	13.83	14.53	15.27
9	10.56	11.09	11.64	12.23	12.83	13.48	14.15	14.90	15.67
10	10.83	11.37	11.94	12.52	13.15	13.82	14.51	15.27	16.04
11	11.09	11.65	12.23	12.84	13.48	14.15	14.86	15.67	16.46
12	11.37	11.94	12.52	13.15	13.82	14.51	15.23	16.06	16.86
13	11.65	12.23	12.84	13.48	14.15	14.86	15.61	16.45	17.29
14	11.95	12.54	13.16	13.83	14.52	15.24	16.01	16.86	17.71
15	12.22	12.81	13.47	14.14	14.85	15.59	16.36	17.28	18.15
16	12.52	13.15	13.81	14.50	15.22	15.98	16.78	17.71	18.61
17	12.84	13.48	14.15	14.86	15.61	16.38	17.20	18.16	19.08
18	13.15	13.81	14.50	15.22	15.98	16.78	17.63	18.61	19.55
19	13.48	14.15	14.86	15.61	16.37	17.20	18.06	19.08	20.04
20	13.82	14.50	15.23	16.00	16.79	17.63	18.51	19.55	20.54
21	14.15	14.86	15.61	16.37	17.20	18.06	18.97	20.04	21.06
22	14.51	15.24	16.01	16.81	17.64	18.52	19.46	20.53	21.59
23	14.86	15.61	16.38	17.20	18.08	18.98	19.91	21.06	22.12
24	15.25	16.01	16.81	17.65	18.53	19.47	20.44	21.59	22.68
25	15.63	16.38	17.21	18.08	18.98	19.92	20.92	22.13	23.24
26	16.00	16.79	17.64	18.52	19.44	20.41	21.43	22.67	23.82
27	16.37	17.20	18.06	18.97	19.91	20.91	21.96	23.24	24.42
28	16.82	17.65	18.54	19.47	20.44	21.47	22.55	23.81	25.04
29	17.20	18.06	18.97	19.91	20.91	21.96	23.06	24.43	25.66
30	17.62	18.51	19.43	20.40	21.42	22.52	23.63	25.03	26.29
31	18.06	18.97	19.91	20.90	21.96	23.05	24.21	25.66	26.97
32	18.51	19.44	20.41	21.43	22.53	23.64	24.82	26.30	27.63
33	18.99	19.93	20.93	21.98	23.08	24.25	25.44	26.97	28.34
34	19.47	20.42	21.45	22.54	23.65	24.83	26.08	27.63	29.03
35	19.94	20.94	22.00	23.10	24.26	25.46	26.75	28.33	29.76
36	20.45	21.47	22.56	23.67	24.85	26.10	27.40	29.03	30.50
37	20.95	22.00	23.10	24.26	25.46	26.75	28.08	29.76	31.25
38	21.48	22.57	23.68	24.86	26.12	27.42	28.79	30.50	32.05
39	22.01	23.11	24.28	25.47	26.76	28.10	29.50	31.25	32.85
40	22.57	23.68	24.86	26.12	27.42	28.78	30.24	32.04	33.65
41	23.13	24.30	25.49	26.78	28.13	29.52	31.01	32.85	34.51
42	23.71	24.90	26.14	27.46	28.84	30.27	31.78	33.66	35.37
43	24.31	25.50	26.80	28.14	29.54	31.02	32.57	34.51	36.24
44	24.91	26.15	27.47	28.84	30.28	31.79	33.37	35.36	37.16
45	25.52	26.80	28.14	29.55	31.02	32.57	34.21	36.26	38.09
46	26.15	27.47	28.84	30.27	31.79	33.37	35.04	37.16	39.04
47	26.82	28.17	29.57	31.06	32.60	34.24	35.95	38.09	40.02
48	27.49	28.87	30.30	31.82	33.40	35.08	36.83	39.04	41.02
49	28.17	29.58	31.08	32.61	34.25	35.97	37.75	40.01	42.04
50	28.89	30.32	31.84	33.44	35.11	36.87	38.70	41.02	43.10

CITY OF LAWTON FIRE SALARY SCHEDULE AS OF JUNE 29, 2009 THROUGH DECEMBER 27, 2009

GRADE	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	STEP H	STEP I	STEP J
1	8.70	9.13	9.59	10.05	10.56	11.09	11.65	12.23	12.85	13.17
2	8.90	9.34	9.82	10.30	10.82	11.36	11.93	12.54	13.17	13.50
3	9.12	9.58	10.04	10.55	11.08	11.63	12.22	12.85	13.50	13.84
4	9.35	9.83	10.31	10.83	11.37	11.94	12.54	13.16	13.84	14.19
5	9.58	10.04	10.55	11.08	11.64	12.22	12.83	13.50	14.17	14.52
6	9.83	10.30	10.82	11.36	11.93	12.51	13.14	13.84	14.54	14.90
7	10.04	10.56	11.08	11.64	12.22	12.83	13.47	14.18	14.89	15.26
8	10.31	10.84	11.37	11.95	12.54	13.16	13.83	14.53	15.27	15.65
9	10.56	11.09	11.64	12.23	12.83	13.48	14.15	14.90	15.67	16.06
10	10.83	11.37	11.94	12.52	13.15	13.82	14.51	15.27	16.04	16.44
11	11.09	11.65	12.23	12.84	13.48	14.15	14.86	15.67	16.46	16.87
12	11.37	11.94	12.52	13.15	13.82	14.51	15.23	16.06	16.86	17.28
13	11.65	12.23	12.84	13.48	14.15	14.86	15.61	16.45	17.29	17.72
14	11.95	12.54	13.16	13.83	14.52	15.24	16.01	16.86	17.71	18.15
15	12.22	12.81	13.47	14.14	14.85	15.59	16.36	17.28	18.15	18.60
16	12.52	13.15	13.81	14.50	15.22	15.98	16.78	17.71	18.61	19.08
17	12.84	13.48	14.15	14.86	15.61	16.38	17.20	18.16	19.08	19.56
18	13.15	13.81	14.50	15.22	15.98	16.78	17.63	18.61	19.55	20.04
19	13.48	14.15	14.86	15.61	16.37	17.20	18.06	19.08	20.04	20.54
20	13.82	14.50	15.23	16.00	16.79	17.63	18.51	19.55	20.54	21.05
21	14.15	14.86	15.61	16.37	17.20	18.06	18.97	20.04	21.06	21.59
22	14.51	15.24	16.01	16.81	17.64	18.52	19.46	20.53	21.59	22.13
23	14.86	15.61	16.38	17.20	18.08	18.98	19.91	21.06	22.12	22.67
24	15.25	16.01	16.81	17.65	18.53	19.47	20.44	21.59	22.68	23.25
25	15.63	16.38	17.21	18.08	18.98	19.92	20.92	22.13	23.24	23.82
26	16.00	16.79	17.64	18.52	19.44	20.41	21.43	22.67	23.82	24.42
27	16.37	17.20	18.06	18.97	19.91	20.91	21.96	23.24	24.42	25.03
28	16.82	17.65	18.54	19.47	20.44	21.47	22.55	23.81	25.04	25.67
29	17.20	18.06	18.97	19.91	20.91	21.96	23.06	24.43	25.66	26.30
30	17.62	18.51	19.43	20.40	21.42	22.52	23.63	25.03	26.29	26.95
31	18.06	18.97	19.91	20.90	21.96	23.05	24.21	25.66	26.97	27.64
32	18.51	19.44	20.41	21.43	22.53	23.64	24.82	26.30	27.63	28.32
33	18.99	19.93	20.93	21.98	23.08	24.25	25.44	26.97	28.34	29.05
34	19.47	20.42	21.45	22.54	23.65	24.83	26.08	27.63	29.03	29.76
35	19.94	20.94	22.00	23.10	24.26	25.46	26.75	28.33	29.76	30.50
36	20.45	21.47	22.56	23.67	24.85	26.10	27.40	29.03	30.50	31.26
37	20.95	22.00	23.10	24.26	25.46	26.75	28.08	29.76	31.25	32.03
38	21.48	22.57	23.68	24.86	26.12	27.42	28.79	30.50	32.05	32.85
39	22.01	23.11	24.28	25.47	26.76	28.10	29.50	31.25	32.85	33.67
40	22.57	23.68	24.86	26.12	27.42	28.78	30.24	32.04	33.65	34.49
41	23.13	24.30	25.49	26.78	28.13	29.52	31.01	32.85	34.51	35.37
42	23.71	24.90	26.14	27.46	28.84	30.27	31.78	33.66	35.37	36.25
43	24.31	25.50	26.80	28.14	29.54	31.02	32.57	34.51	36.24	37.15
44	24.91	26.15	27.47	28.84	30.28	31.79	33.37	35.36	37.16	38.09
45	25.52	26.80	28.14	29.55	31.02	32.57	34.21	36.26	38.09	39.04
46	26.15	27.47	28.84	30.27	31.79	33.37	35.04	37.16	39.04	40.02
47	26.82	28.17	29.57	31.06	32.60	34.24	35.95	38.09	40.02	41.02
48	27.49	28.87	30.30	31.82	33.40	35.08	36.83	39.04	41.02	42.05
49	28.17	29.58	31.08	32.61	34.25	35.97	37.75	40.01	42.04	43.09
50	28.89	30.32	31.84	33.44	35.11	36.87	38.70	41.02	43.10	44.18

CITY OF LAWTON FIRE SALARY SCHEDULE AS OF DECEMBER 28, 2009 THROUGH JUNE 27, 2010

GRADE	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	STEP H	STEP I	STEP J
1	8.87	9.31	9.78	10.25	10.77	11.31	11.88	12.47	13.11	13.43
2	9.08	9.53	10.02	10.51	11.04	11.59	12.17	12.79	13.43	13.77
3	9.30	9.77	10.24	10.76	11.30	11.86	12.46	13.11	13.77	14.11
4	9.54	10.03	10.52	11.05	11.60	12.18	12.79	13.42	14.12	14.47
5	9.77	10.24	10.76	11.30	11.87	12.46	13.09	13.77	14.45	14.81
6	10.03	10.51	11.04	11.59	12.17	12.76	13.40	14.12	14.83	15.20
7	10.24	10.77	11.30	11.87	12.46	13.09	13.74	14.46	15.19	15.57
8	10.52	11.06	11.60	12.19	12.79	13.42	14.11	14.82	15.58	15.96
9	10.77	11.31	11.87	12.47	13.09	13.75	14.43	15.20	15.98	16.38
10	11.05	11.60	12.18	12.77	13.41	14.10	14.80	15.58	16.36	16.77
11	11.31	11.88	12.47	13.10	13.75	14.43	15.16	15.98	16.79	17.21
12	11.60	12.18	12.77	13.41	14.10	14.80	15.53	16.38	17.20	17.63
13	11.88	12.47	13.10	13.75	14.43	15.16	15.92	16.78	17.64	18.08
14	12.19	12.79	13.42	14.11	14.81	15.54	16.33	17.20	18.06	18.52
15	12.46	13.07	13.74	14.42	15.15	15.90	16.69	17.63	18.51	18.98
16	12.77	13.41	14.09	14.79	15.52	16.30	17.12	18.06	18.98	19.46
17	13.10	13.75	14.43	15.16	15.92	16.71	17.54	18.52	19.46	19.95
18	13.41	14.09	14.79	15.52	16.30	17.12	17.98	18.98	19.94	20.44
19	13.75	14.43	15.16	15.92	16.70	17.54	18.42	19.46	20.44	20.95
20	14.10	14.79	15.53	16.32	17.13	17.98	18.88	19.94	20.95	21.47
21	14.43	15.16	15.92	16.70	17.54	18.42	19.35	20.44	21.48	22.02
22	14.80	15.54	16.33	17.15	17.99	18.89	19.85	20.94	22.02	22.57
23	15.16	15.92	16.71	17.54	18.44	19.36	20.31	21.48	22.56	23.13
24	15.56	16.33	17.15	18.00	18.90	19.86	20.85	22.02	23.13	23.71
25	15.94	16.71	17.55	18.44	19.36	20.32	21.34	22.57	23.70	24.30
26	16.32	17.13	17.99	18.89	19.83	20.82	21.86	23.12	24.30	24.90
27	16.70	17.54	18.42	19.35	20.31	21.33	22.40	23.70	24.91	25.53
28	17.16	18.00	18.91	19.86	20.85	21.90	23.00	24.29	25.54	26.18
29	17.54	18.42	19.35	20.31	21.33	22.40	23.52	24.92	26.17	26.83
30	17.97	18.88	19.82	20.81	21.85	22.97	24.10	25.53	26.82	27.49
31	18.42	19.35	20.31	21.32	22.40	23.51	24.69	26.17	27.51	28.20
32	18.88	19.83	20.82	21.86	22.98	24.11	25.32	26.83	28.18	28.89
33	19.37	20.33	21.35	22.42	23.54	24.74	25.95	27.51	28.91	29.63
34	19.86	20.83	21.88	22.99	24.12	25.33	26.60	28.18	29.61	30.35
35	20.34	21.36	22.44	23.56	24.75	25.97	27.29	28.90	30.36	31.11
36	20.86	21.90	23.01	24.14	25.35	26.62	27.95	29.61	31.11	31.89
37	21.37	22.44	23.56	24.75	25.97	27.29	28.64	30.36	31.88	32.67
38	21.91	23.02	24.15	25.36	26.64	27.97	29.37	31.11	32.69	33.51
39	22.45	23.57	24.77	25.98	27.30	28.66	30.09	31.88	33.51	34.34
40	23.02	24.15	25.36	26.64	27.97	29.36	30.84	32.68	34.32	35.18
41	23.59	24.79	26.00	27.32	28.69	30.11	31.63	33.51	35.20	36.08
42	24.18	25.40	26.66	28.01	29.42	30.88	32.42	34.33	36.08	36.98
43	24.80	26.01	27.34	28.70	30.13	31.64	33.22	35.20	36.96	37.89
44	25.41	26.67	28.02	29.42	30.89	32.43	34.04	36.07	37.90	38.85
45	26.03	27.34	28.70	30.14	31.64	33.22	34.89	36.99	38.85	39.82
46	26.67	28.02	29.42	30.88	32.43	34.04	35.74	37.90	39.82	40.82
47	27.36	28.73	30.16	31.68	33.25	34.92	36.67	38.85	40.82	41.84
48	28.04	29.45	30.91	32.46	34.07	35.78	37.57	39.82	41.84	42.89
49	28.73	30.17	31.70	33.26	34.94	36.69	38.51	40.81	42.88	43.95
50	29.47	30.93	32.48	34.11	35.81	37.61	39.47	41.84	43.96	45.06

**ADDENDUM B
FIRE LONGEVITY SCHEDULE**

Number of years of Continuous Service	Bi-weekly Rate or Accrual in Dollars
01	0.00
02	0.00
03	0.00
04	23.60
05	29.50
06	35.40
07	41.30
08	47.20
09	53.10
10	59.00
11	64.90
12	70.80
13	76.70
14	82.60
15	88.50
16	94.40
17	100.30
18	106.20
19	112.10
20	118.00
21	123.90

The above-referenced chart is subject to the eligibility requirements in Section 13.2.

Chapter 17

PERSONNEL POLICES AND PROCEDURES

Articles:

17-1	PERSONNEL REGULATIONS
17-2	PERSONNEL REGULATIONS CONTINUED
17-3	RETIREMENT AND PENSIONS

Article 17-1

PERSONNEL REGULATIONS

Divisions:

- 17-1-1 General Provisions**
- 17-1-2 Personnel Department**
- 17-1-3 Recruitment, Selection and Appointment**
- 17-1-4 Classification and Pay**
- 17-1-5 Hours of Work and Overtime**
- 17-1-6 Leave**
- 17-1-7 Discipline and Grievances**
- 17-1-8 Personnel Board**

Division 17-1-1

General Provisions

Sections:

- 17-1-1-101 Declaration of personnel policy.
- 17-1-1-102 Definitions.
- 17-1-1-103 Scope of policies.
- 17-1-1-104 Waiver for employees under contract.
- 17-1-1-105 Reserved.
- 17-1-1-106 Technical rules.
- 17-1-1-107 Duties of the city manager.

A. The following personnel policies are established to promote and bring into the service of the city the high degree of understanding, cooperation, efficiency and unity which comes through systematic application of good procedures of personnel administration, and to provide a uniform policy for all employees with all the benefits such a program ensures. The fundamental objectives of these policies shall be:

1. To promote and increase effective, efficient and economic municipal service;
2. To provide fair and equal opportunity to all qualified individuals to enter city employment on the basis of demonstrated merit, ability and physical and moral fitness as ascertained through fair and practical methods of selection free of personal and political considerations;
3. To develop a program of recruitment, advancement and tenure which will make municipal service attractive as a career and encourage each employee to render the employee's best services to the city;
4. To establish and maintain a uniform plan of evaluation and pay based upon the relative duties and responsibilities of positions in the services of the city;
5. To establish pay rates for given classes of work comparable with the rates of pay found to prevail in the community from which candidates for employment to perform such work are likely to be recruited; such community may be local, may comprise nearby cities of similar population, may be statewide, or may be national, depending upon the recruitment area for specific classes;
6. To promote and maintain high morale among city employees by providing good working relationships, uniform personnel policies, opportunity for advancement and consideration for employee welfare; and
7. To provide that continuity of employment shall be subject to good behavior, satisfactory performance of work, necessity of the performance of work and availability of funds. (97-26, Amended, 05/27/1997)

Section 17-1-1-101 Declaration of personnel policy.

A. The following personnel policies are established to promote and bring into the service of the city the high degree of understanding, cooperation, efficiency and unity which comes through systematic application of good procedures of personnel administration, and to provide a uniform policy for all employees with all the benefits such a program ensures. The fundamental objectives of these policies shall be:

1. To promote and increase effective, efficient and economic municipal service;

2. To provide fair and equal opportunity to all qualified individuals to enter city employment on the basis of demonstrated merit, ability and physical and moral fitness as ascertained through fair and practical methods of selection free of personal and political considerations;

3. To develop a program of recruitment, advancement and tenure which will make municipal service attractive as a career and encourage each employee to render the employee's best services to the city;

4. To establish and maintain a uniform plan of evaluation and pay based upon the relative duties and responsibilities of positions in the services of the city;

5. To establish pay rates for given classes of work comparable with the rates of pay found to prevail in the community from which candidates for employment to perform such work are likely to be recruited; such community may be local, may comprise nearby cities of similar population, may be statewide, or may be national, depending upon the recruitment area for specific classes;

6. To promote and maintain high morale among city employees by providing good working relationships, uniform personnel policies, opportunity for advancement and consideration for employee welfare; and

7. To provide that continuity of employment shall be subject to good behavior, satisfactory performance of work, necessity of the performance of work and availability of funds. (97-26, Amended, 05/27/1997)

Section 17-1-1-102 Definitions.

A. As used in this chapter, and each article and section thereof, the meaning of words and terms shall be as follows:

1. "Agency" means any board, committee, commission, court or trust of the city or for which the city is the beneficiary.

2. "Allocation" is the assignment of a position to a class.

3. "Appointed official" means any person appointed by the mayor, council or city manager and serving without pay in an agency.

4. "Bargaining unit" means any group of employees who are represented by a bargaining agent as authorized and defined by state or local law.

5. "Board" means the personnel board and shall not be construed to mean any other board, commission or committee.

6. "Class" is a group of one or more positions sufficiently similar to be treated alike for personnel purposes-in recruitment, testing, range of pay, training, and other processes-and appropriately to be given a common Title for use in personnel management.

7. "Class specifications" are written descriptions of the classes, intended to identify the classification factors of each class and to facilitate the allocation of positions to the class.

8. "Classification plan" is the allocation of individual positions to the several classes, the definitions of those classes in terms of classification factors, and the assignment of classes to grades in the classification and pay schedule.

9. "Classified employees" includes all full-time employees of the city working at least a forty-hour work week with total work hours in a year of two thousand eighty (2080), but shall not include the following:

a. The city manager, city clerk and judge of the municipal court.

b. Part-time employees.

c. Temporary employees.

- d. Unclassified service personnel.
- e. Introductory employees.
- 10. "Continuous service" means service uninterrupted by resignation or discharge, except as provided in Section 17-141 D. of this code.
- 11. "Contract" means any agreement with the city.
- 12. "Cost-of-living increase" is that increase which is granted to regular employees for each position title as approved by the city council.
- 13. "Daily pay rate" means, in the case of an exempt employee, an individual's bi-weekly salary divided by ten (10); in the case of a nonexempt employee, the employee's hourly pay rate multiplied by eight if the employee works a normal eight hour workday period, or multiplied by ten (10) if the employee works a normal (10) hour workday period.
- 14. "Demotion" means the act of reducing an employee to a lower step or grade in the city's classification and pay plan.
- 15. "Department directors" means all those classified employees who have been designated by the City Charter, or by the city manager to exercise departmental supervisory responsibility.
- 16. "Discipline" means action against an employee, taken in response to behavior or conduct by the employee and adjudged by the city manager or his designee to be for the good of the service.
- 17. "Elected official" means the mayor or council member;
- 18. "Employee" means any person receiving a salary from the city whether full-time or part-time, provided it shall not mean any person employed by the city as an independent contractor or elected official.
- 19. "Entrance pay" is the pay during the introductory period, usually the lowest step of the pay grade.
- 20. "Exempt employees" means those employees identified by the personnel director as being exempt under the Fair Labor Standards Act from receiving pay for overtime worked.
- 21. "Fixed holiday" means a holiday observed by all employees, except those necessary to provide emergency services, on a certain designated date.
- 22. "Flexible holiday" means a holiday observed by an employee at a time of the employee's choosing with the mutual consent of the employee's immediate supervisor and department director.
- 23. "For the good of the service" means that the removal, demotion, suspension or layoff of employees may be made at will, that is, with cause or without cause.
- 24. "Full time employee" means an employee who normally works or is scheduled to work two thousand eighty (2,080) hours or more per year.
- 25. "Gender" means that any word using the masculine form such as "he" or "him," may be extended and applied to the feminine form such as "she" or "her".
- 26. "Grievance" means a cause for complaint by an employee over matters of pay, benefits or working conditions.
- 27. "Immediate family" means the spouse, children, mother, father, father-in-law, sisters, brothers, mother-in-law, stepmother, stepfather, stepchildren, sister-in-law, brother-in-law, and grandparents of the employee only. It shall also include any guardian who raised the employee in the guardian's home.
- 28. "Interest" means any direct or indirect pecuniary or material benefit which a person has or may receive.
- 29. "Interviewing authority" means a division supervisor or department director who will interview job applicants to fill a position vacancy.

30. "Introductory employee" means any employee who has worked less than the introductory period as set forth in these rules or in the case of a bargaining unit the introductory period shall be that period defined in the collective bargaining unit.

31. "Introductory period" or "introductory status" means the time, period, status or situation while an employee is employed by the city for less than six months.

32. "Layoff" means a reduction in the number of positions within any department of the city resulting in the separation of any employee or employees.

33. "Longevity earning date" means the date a regular full-time employee begins to earn longevity pay and shall be the first day of the month immediately following the employee's longevity qualification date.

34. "Longevity pay" means a payment based on length of continuous service paid periodically to regular employees in addition to the regular employee's regular salary, adjusted at specified intervals, and calculated as a sum equivalent to .0068091 times the biweekly base pay of a meter reader at Step F times the employee's total number years of continuous service not to exceed twenty-one (21) years.

35. "Longevity qualification date" means the date on which a regular employee completes forty-eight (48) months of continuous service with the city.

36. "Majority" means fifty percent (50%) plus one, of the total members of the personnel board;

37. "Member" means an individual appointed to serve on the personnel board.

38. "Non-exempt employees" means employees who are eligible under the Fair Labor Standards Act to receive additional compensation for overtime worked.

39. "Occupational group" is the categorization of certain classifications into groups to facilitate personnel procedures and administration of these rules such as, but not all inclusive, labor and trades, clerical, technical and professional employees.

40. "On call" means directly available to a telephone call at a known number for reasonable response to the city's emergency needs. Employees on call are free to attend to their personal business as long as a telephone number is provided where they may be contacted.

41. "Part-time employees" are those employees who normally works or is scheduled to work less than forty (40) hours per week or less than two thousand eighty (2,080) hours per year.

42. "Pay grade" is a level of position title to which is assigned job tasks having comparable levels of difficulty and responsibility.

43. "Pay plan" is the schedule of pay rates assigned to pay grades and pay steps.

44. "Pay step" is an amount of pay assigned to a grade by the pay plan identified by an alphabetic designation in ascending order.

45. "Position" is the sum of all tasks to be performed by one employee.

46. "Position title" designates job position titles commensurate with job requirements for all categories of employment with the city.

47. "Promotion" means the transfer of an employee from a position of one grade to a position of a higher grade, always involving a transfer from one class to a higher one.

48. "Quorum" means a simple majority of the total members of the personnel board.

49. "Reclassification" means the transfer of a position from one class to another.

50. "Reduction in grade" means the demotion of any employee by decreasing the employee's salary or the employee's wage in the pay plan by reclassifying the employee to a lower classification.

51. "Reduction in step" means the demotion of any employee by decreasing the employee's salary or the employee's wage within the salary or wage range for the employee's

classification in the pay plan.

52. "Regular employee" means all full-time employees not represented by a bargaining unit who shall have satisfactorily completed the required introductory period.

53. "Regular part-time employee" means all employees not represented by a bargaining unit who normally works less than two thousand eighty (2,080) hours per year, but more than one thousand forty (1,040) hours per year. Regular part-time employees are not temporary or seasonal.

54. "Resignation" means an action initiated by an employee in voluntarily separating from employment with the city.

55. "Separation" means the act of ceasing employment with the city; either voluntarily or by action of the city or its supervisors.

56. "Series" means two or more classes involving the same occupational field but differing in rate.

57. "Step increase" means a salary increase to be granted an employee based on merit criteria and related to performance, experience and proficiency.

58. "Shift employee" means a regular non-exempt employee who works in an activity or operation which requires twenty-four (24) hours of continuous operation not including emergency conditions, or who is scheduled to work and does work in a position where at least 50% of the work is performed prior to 5:00 A.M. or after 5:00 P.M. and the position has been approved for shift differential pay by the city manager.

59. "Stand-by differential pay" is defined and established as a premium pay paid at a rate of ten percent (10%) of the daily pay rate paid to the regular employee subject to certain provisions as outlined in Section 17-139 of this code.

60. "Suspension" means the temporary separation of an employee by a department director or the city manager without pay for a fixed period of time as may be more specifically outlined in these rules.

61. "Temporary employees" means those employees who at time of employment are employed for less than one thousand forty (1,040) hours during any twelve-month period.

62. "Terminal Leave" means leave taken by an employee immediately prior to retirement from city employment and extending to the established retirement date. Only an employee's accrued vacation and sick leave may be used as terminal leave.

63. "Termination" means the release, discharge or dismissal by the city manager, of any employee of the city for the good of the service.

64. "Unclassified personnel" means the following:

a. All elected officials, appointed members of the personnel board, and individuals appointed to boards and commissions;

b. Volunteer personnel and personnel assigned to serve without pay;

c. Consultants and counsel rendering professional services;

d. The city manager, the city clerk and the judge of the municipal court;

e. Such positions as may be specifically placed in the unclassified service pursuant to these rules;

f. Introductory employees of the police or fire department as defined by the appropriate collective bargaining agreement; and

g. All seasonal or temporary employees.

65. "Work day" means the daily hours or daily period of work which is designated by the respective department directors. (Ord. 2003-31, Amended, 07/17/2003; Ord. 2003-33, Amended, 07/01/2003; Ord. 2001-13, Amended, 03/27/2001; 97-40, Amended, 07/12/1997; 97-26, Amended, 05/27/1997) (Ord. 2007-41, Amended, 07/10/2007)

Section 17-1-1-103 Scope of policies.

The policies set forth in this chapter shall apply to all employees except as may be provided for employees under contract. These policies shall not apply where the policies are inconsistent with or contrary to state statutes. (97-26, Amended, 05/27/1997)

Section 17-1-1-104 Waiver for employees under contract.

Employees under a contract negotiated with the city shall receive only such benefits as may be provided in such contracts, but such employees shall be subject to such other provisions in these rules as are not otherwise covered in the contract. (97-26, Amended, 05/27/1997)

Section 17-1-1-105 Reserved.

(97-26, Amended, 05/27/1997)

Section 17-1-1-106 Technical rules.

These rules relate only to matters of personnel management and do not cover any departmental procedures, standard practices, standing orders or other technical matters. Department directors have full authority to make departmental rules not in conflict with these rules, and otherwise to direct the conduct of the work of the department their respective departments. (97-26, Amended, 05/27/1997)

Section 17-1-1-107 Duties of the city manager.

A. The city manager shall be chief administrative officer and head of the administrative branch of the city government. The city manager shall execute the laws and ordinances and administer the government of the city, and shall be responsible therefore to the city council. The city manager shall:

1. Appoint, and when deemed necessary for the good of the service, lay off, suspend, demote or remove all directors, or heads, of administrative departments and all other administrative officers and employees of the city except as the city manager may authorize the head of a department, an officer, or an agency to appoint, layoff, suspend, demote and remove subordinates in such department, office or agency;

2. Supervise and control, directly or indirectly, all administrative department, agencies, officers and employees;

3. Prepare a budget annually and submit it to the council, be responsible for the administration of the budget after it goes into effect, and recommend to the council any changes in the budget which he deems desirable.

4. Submit to the council a report as of the end of the fiscal year on the finances and administrative activities of the city for the proceeding year.

5. Keep the council advised of the financial condition and future needs of the city, and make such recommendations to the council on matters of policy and other matters as may deem to him desirable.

6. Have such other powers, duties, and functions as the city Charter may prescribe, and such powers, duties, and functions consistent with the city Charter as the council may prescribe. (97-26, Amended, 05/27/1997)

Division 17-1-2

Personnel Department

Sections:

17-1-2-111 Functions of the personnel department.

17-1-2-112 Obligations of department directors.

17-1-2-113 Personnel records.

- A. The personnel department performs the following functions:
1. Recruiting candidates for employment;
 2. Maintaining contact with all available recruitment sources, including those representing minority groups;
 3. Preliminary screening of candidates and the making of referrals to the several department heads;
 4. Advising and assisting the city manager and the department heads as to personnel policies in general and individual cases in particular, to ensure that all laws and administrative regulations are complied with and that good personnel practices are observed;
 5. Representing the city manager, as directed, in relationships involving personnel matters with private and governmental agencies;
 6. Issuing, revising and keeping up-to-date these personnel rules;
 7. Maintaining the classification and pay plans;
 8. Keeping the central personnel records, including records of accidents and injuries;
 9. Coordinating the training of city employees; and
 10. Supervising the equal employment opportunity and affirmative action programs of the city. (97-26, Amended, 05/27/1997)

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 7. Maintaining the classification and pay plans;
 8. Keeping the central personnel records, including records of accidents and injuries;
 9. Coordinating the training of city employees; and
 10. Supervising the equal employment opportunity and affirmative action programs of the city.
(97-26, Amended, 05/27/1997)

Section 17-1-2-112 Obligations of department directors.

A. The respective department directors shall be responsible for the selection of qualified staffs, training of employees, the granting of pay increases, promotions, discipline, dismissal, and the morale and readiness of employees to serve of their departments.

B. In order to make the personnel program function as an aid to the department directors, the department directors have a duty to perform certain specific actions, as follows:

1. To keep the personnel department informed as to future manpower needs, qualification requirements and sources of recruitment;

2. To notify the personnel department of substantial changes in the duties and assignments, including the creation and abolishment of positions, where a change of class might be indicated;

3. To use correct titles in all personnel and payroll transactions;

4. To consult with and seek the advice of the personnel department on important personnel decisions before rather than after the fact;

5. To comply fully and promptly with the provisions of these rules relating to keeping the personnel department informed; and

6. To suggest changes in the personnel rules and improvements in the personnel program. (97-26, Amended, 05/27/1997)

Section 17-1-2-113 Personnel records.

The personnel department shall maintain files for each person currently employed by the city, which shall include the original application for employment, the titles of positions to which appointed, disciplinary procedures, letters of commendation, and similar data. Such employee files shall be kept confidential from all persons except the employee, the employee's division supervisor, and the department director in which the employee works, the city manager, such persons as the employee may authorize in writing or who are authorized by law. Personnel records required to be released pursuant to state or federal law are not considered confidential materials. (97-26, Amended, 05/27/1997)

Division 17-1-3

Recruitment, Selection and Appointment

Sections:

- 17-1-3-121 Responsibility of the personnel department.**
- 17-1-3-122 Departmental responsibilities.**
- 17-1-3-123 Screening.**
- 17-1-3-124 Certification and appointment.**
- 17-1-3-125 Reference checks, drug screens, physical exams.**
- 17-1-3-126 Types of appointments.**
- 17-1-3-127 Rehire of former employees.**

The personnel department, under the direction of the city manager, is primarily responsible for recruiting candidates for employment in all departments covered by these rules. The personnel department is responsible for listing vacancies with employment agencies, advertising for candidates, notifying trade and professional groups, identifying and maintaining contact with sources of minority and women candidates for employment, circulating lists of vacant positions, posting such lists in city buildings, and all other recruiting activities. (97-26, Amended, 05/27/1997)

Section 17-1-3-121 Responsibility of the personnel department.

The personnel department, under the direction of the city manager, is primarily responsible for recruiting candidates for employment in all departments covered by these rules. The personnel department is responsible for listing vacancies with employment agencies, advertising for candidates, notifying trade and professional groups, identifying and maintaining contact with sources of minority and women candidates for employment, circulating lists of vacant positions, posting such lists in city buildings, and all other recruiting activities. (97-26, Amended, 05/27/1997)

Section 17-1-3-122 Departmental responsibilities.

A. Department directors and supervisors have the following responsibilities in regard to employee recruitment:

1. To notify the personnel department promptly of an impending vacancy (if it is to be filled), as soon as the department directors or supervisors have any knowledge that one is expected to occur, in order that the department directors or supervisors may obtain the best applicants;
2. To use the correct class title of the position to be filled;
3. To indicate any special qualifications that the department directors or supervisors desire in filling the position, over and above those specified for the class;
4. To notify the personnel department promptly when a candidate has been rejected or has been selected as the finalist for the available position. Once the finalist is selected, the prospective employee shall be promptly referred to the personnel department for all required and necessary testing and health physicals; and
5. To make sure that departmental divisions post all job announcements sent by the personnel department in places where they may be easily read by division employees. (97-26,

Section 17-1-3-123 Screening.

A. The personnel department shall screen all candidates for appointment according to established qualification requirements and determine preliminary eligibility for specific classes of work. Unqualified candidates shall be refused appointment, and the reasons for such refusals shall be recorded in writing.

B. The making of deliberate false statements on an application is cause for refusal of employment and if discovered after appointment is cause for dismissal. (97-27, Amended, 05/27/1997)

Section 17-1-3-124 Certification and appointment.

A. Interviewing authorities who are to interview applicants for employment with the city will have the right to review all job applications received to fill a position vacancy for which they are the interviewing authority.

B. The human resources department will certify job applicants after preliminary screening, and forward to the interviewing authority the number of applications previously requested by the interviewing authority. Additional applications may be requested by the interviewing authority. All applicants referred to the interviewing authority will be interviewed and considered for appointment to fill the vacancy. The reasons for rejections of applicants will be recorded in writing.

C. When a vacancy occurs in the city service, the human resources director shall cause notices of the vacancy to be posted in accordance with the other provisions of this section.

D. During established recruiting periods, the human resources director shall cause notices of the vacancy to be posted at various locations throughout the city's facilities.

E. In order to maximize development opportunities for existing city employees showing qualifications and desire to move within the city and/or to benefit the City of Lawton the city manager is authorized to approve personnel moves to select open positions without interviewing other internal or external applicants. The person being moved must meet the minimum qualifications listed in the current job description for the position to be acquired. The open position will be subject to a three day posting before appointment to allow other qualified employees to identify their interest in the position.

F. The human resources director shall simultaneously post open positions externally and internally except as under paragraph E above. The department director may indicate external sources he wishes to be considered for posting. The human resources director shall certify the most qualified of those candidates who meet the minimum qualifications of the position being advertised.

G. In the event that a city employee's experience, qualifications, and previous performance is equal to the best qualified of the other candidates, preference shall be given to the city employee.

H. In the event the chosen candidate has the conditional job offer rescinded, the original candidate pool will be utilized for selection unless none of the remaining candidates meet the minimum requirements for the position.

I. All appointments for employment with the city shall be subject to approval by the city manager or such department director or officer as the city manager may designate.

(97-26, Amended, 05/27/1997)

(Ord. 2006-49, Amended, 07/25/2006; 2005-69, Amended, 09/22/2005)

Section 17-1-3-125 Reference checks, drug screens, physical exams.

A. The personnel department shall check the references given by the applicants whenever possible. An unfavorable reference may be cause for rejection of the application.

B. Pursuant to the city's drug policies, drug screens shall be performed of all candidates recommended for appointment. Physical examinations shall be conducted of candidates recommended for appointment to certain positions involving strenuous exercise or physical labor. Such screens and examinations shall be conducted in accordance with reasonable administrative procedures established by the city manager.

C. Applicants who submit to the city's preemployment drug screen shall be truthful and candid during the screening process. All confirming positive drug screens will be grounds for denial of employment or promotion. All persons identified during the screening process to have a positive confirmed drug screen will be given the opportunity to explain the test results to the personnel department. All such results should be treated in such a manner as to reduce the likelihood of public dissemination. The city reserves the right to use positive drug screens as grounds for denial regardless of the explanation offered, however all reasonable, medically supportable justification will be considered. (97-26, Amended, 05/27/1997)

Section 17-1-3-126 Types of appointments.

A. Appointments of employees to positions under these rules shall be of the following types:

1. Introductory appointments;
2. Regular appointments: Upon the satisfactory completion of the introductory period, employees are granted regular appointments; and
3. Temporary appointments: Employees may be given temporary appointments, which are limited to no more than six months. Such employees do not receive benefits under this chapter.

B. Positions may be full-time or part-time and may be occupied by employees under any of the three types of appointments. (97-26, Amended, 05/27/1997)

Section 17-1-3-127 Rehire of former employees.

A. It shall be the policy of the City of Lawton not to rehire or consider for rehire the following former employees: employees whose separation from service was due to unsatisfactory job performance; misconduct; provided less than two weeks notice before the effective date of their separation from service, or did not complete the notice period.

B. The human resources director will review the personnel records of former employees who submit applications for employment and determine their eligibility for rehire. Applications from former employees not eligible for rehire will not be submitted by the human resources department to the hiring authority for consideration.

C. In general, all former employees selected for rehire are required to complete the same pre-employment process as any other applicant selected to fill a city position. However, based on the circumstances of the former employee's previous termination of employment with the city and the length of time since the former employee was last employed by the city, the human resources director, with the concurrence of the city manager, may waive certain steps or requirements of the normal pre-employment process, should doing so be in the best interest of

the city. This policy, however, shall not waive the requirements of a conditional hire to successfully complete a drug screen and a criminal background investigation.

D. This section does not apply to former employees laid off from employment in accordance with Section 17-2-11-239 or temporary employees routinely terminated after expiration of the normal term of the position for which they were hired. (Ord. 2004-22, Add, 05/25/2004)

Division 17-1-4

Classification and Pay

Sections:

- 17-1-4-131 **Classification plan.**
- 17-1-4-132 **Maintenance of the classification and pay plan.**
- 17-1-4-133 **Pay plan.**
- 17-1-4-134 **Cost-of-living increases or decreases.**
- 17-1-4-135 **Starting pay.**
- 17-1-4-136 **Periodic pay increases.**
- 17-1-4-137 **Introductory periods.**
- 17-1-4-137.1 **Promotions.**
- 17-1-4-138 **Shift pay differential.**
- 17-1-4-139 **Standby pay differential.**
- 17-1-4-140 **Pay for working out of classification.**
- 17-1-4-141 **Longevity.**
- 17-1-4-142 **Pay at separation or termination.**
- 17-1-4-143 **Educational incentive program.**

A. All city positions as established by appropriations, whether occupied or vacant, are allocated to classes of work in accordance with the actual duties and responsibilities of the several positions. There may be one or more positions in a class. Each class is, in turn, assigned to a pay grade. The grades are numbered from the lowest to the highest. The body of classes and pay grades constitutes the city classification plan.

B. Such classification of employee positions may be grouped into occupational groups for purposes of convenience and equitable treatment in matters of personnel and compensation. (97-26, Amended, 05/27/1997)

Section 17-1-4-131 Classification plan.

A. All city positions as established by appropriations, whether occupied or vacant, are allocated to classes of work in accordance with the actual duties and responsibilities of the several positions. There may be one or more positions in a class. Each class is, in turn, assigned to a pay grade. The grades are numbered from the lowest to the highest. The body of classes and pay grades constitutes the city classification plan.

B. Such classification of employee positions may be grouped into occupational groups for purposes of convenience and equitable treatment in matters of personnel and compensation.
(97-26, Amended, 05/27/1997)

Section 17-1-4-132 Maintenance of the classification and pay plan.

A. The personnel department shall have primary responsibility for maintenance and administration of the classification plan and pay plan. As the duties of positions change, the positions shall be reviewed for reallocation to different classes and the appropriateness of the classes in the classification plan shall likewise be reviewed and changes made upon approval of the city manager.

B. Department directors and supervisors have a duty to report substantial changes in the duties and responsibilities of positions under the department directors' and supervisors' control in order that classification adjustments may be made. (97-26, Amended, 05/27/1997)

Section 17-1-4-133 Pay plan.

A. A uniform and equitable pay plan shall be prepared and kept up-to-date by the city manager and submitted to the council for approval. The pay plan shall consist of pay grades for each position classification and shall be based on the ranges of pay for other classes, requisite qualifications, general rates of pay for comparable work in other public and private employment in the area, cost-of-living data, maintenance or other benefits received by employees, the financial position of the city, and other economic considerations.

B. Each grade in the classification plan has steps of biweekly pay.

C. Employees working part-time or for only part of a pay period shall be paid at an hourly rate for the time actually worked. (97-26, Amended, 05/27/1997)

Section 17-1-4-134 Cost-of-living increases or decreases.

A. In order to recognize the effects of the changing purchasing power of the dollar, it will be necessary to give all employees periodic pay adjustments. Such adjustments are to be made at the discretion of the city council, and it is the policy of the city that such adjustments are to be based on the estimated increase or decrease in the cost of living as reflected in the United States Department of Labor's consumer price index.

B. Such cost-of-living changes should be made by a percentage or across the board uniformly to every grade set out in the city pay plan and should not involve any changes in the grades of positions or the steps at which employees are paid. (97-26, Amended, 05/27/1997)

Section 17-1-4-135 Starting pay.

A. New employees shall normally start work at the A step of the grade to which their positions are allocated by the pay plan. Upon the successful completion of the introductory period, employees will be eligible for a pay increase to the immediate next highest pay step, based upon the employees meritorious performance during the introductory period. Should an employee be hired initially in step other than step A, the review time between future merit increases will follow the time periods specified in the pay plan.

B. In the case where a candidate for employment clearly has exceptional qualifications for the position, the candidate may be employed initially at a step in the pay plan higher than either step A or B. The department director and the city manager shall approve such within-range recruitment at the C step or above. (97-26, Amended, 05/27/1997)

Section 17-1-4-136 Periodic pay increases.

A. Any employee hired or promoted into either step "A" or "B" who successfully completes the appropriate introductory period shall normally receive an increase to the immediate next higher step. Any employee hired at step "C" or higher will not be eligible for an increase into a higher step until the expiration of the time periods between steps established by the pay plan. These periodic pay increases are intended to recognize the increased value of the employee to the city as the employee gains experience and to reward meritorious performance. These periodic pay increases shall not be given in lieu of periodic cost of living increases provided for elsewhere in this article.

B. Pay increases to the C step and higher may be granted periodically upon the recommendation of the department director with the approval of the city manager. Such increases shall normally be of one step. All classified employees shall be paid at the rates of pay set by the pay plan.

C. Periodic pay increases shall normally be granted only on or after the annual anniversary date of the completion of the introductory period by the employee and only for an employee who has received a rating of standard or higher in the employee's most recent performance evaluation.

D. It is the duty of department directors and supervisors to identify outstanding workers and to recommend to the city manager that the outstanding workers be granted accelerated increases. Conversely, it is the duty of supervisors to withhold pay increases for employees whose performance is substandard.

E. An employee will be paid back pay as a result of management determination, administrative determination, grievance hearing finding, or judicial decree. An employee's claim for back pay shall be equal to the amount of wages the employee would have earned, plus interest at the applicable statutory rate for judgments against municipalities, but not to exceed ten percent (10%) per annum. However, said interest shall not apply to normal delays incurred in payroll processing. This provision shall apply when an employee fails to receive the correct compensation within a period of forty-five (45) days from the effective date of action. This provision will not apply to payments of longevity or sick pay in lieu.

F. Merit step increases are reinstated effective December 22, 2003 per the General Employee Pay Plan as enumerated in City of Lawton Resolution 02-102 and shall be retroactive to July 1, 2003. The reinstatement of merit steps in the general employee pay plan shall only apply to those persons who were employed by the city on December 22, 2003 or to those persons who retired from city employment between July 1 and December 22, 2003. (Ord. 2003-59, Amended, 12/22/2003; Ord. 2003-36, Amended, 07/09/2003; Ord. 2003-32, Amended, 07/01/2003; 97-26, Amended, 05/27/1997)

Section 17-1-4-137 Introductory periods.

A. Every new employee shall be in an introductory status for the employee's first six months of work starting from their date of hire. Introductory status employees may have their employment rescinded by the city manager at any time during the introductory period without any right of appeal. Employees who will be covered by a collective bargaining agreement will be in an introductory status according to the terms of the collective bargaining agreement.

B. During the introductory period, the supervisor will observe the employee's work with particular care, will be responsible for the employee's training, and will advise the employee in the performance of the employee's duties and the employee's relative progress in the job.

C. Prior to the close of the introductory period, the department director shall recommend to the city manager that either:

1. The employee be made a regular employee upon completion of the introductory period.
2. The employment of the introductory employee be rescinded.

D. Full-time introductory employees are entitled to vacation, sick leave, and holidays as set out in these rules. A regular part-time employee must have satisfactorily completed the six-month introductory period during which the employee was employed continuously and worked a minimum of five hundred twenty (520) hours before the employee is eligible for any benefits.

E. Employees promoted within the city service shall be in an introductory status in

the employee's new classification for the employee's first six months. During that time the city manager may cancel the promotion in which case the employee is to be restored to the employee's former or a similar position.

F. A new or existing employee in an introductory status is not eligible to apply for another city job until the completion of their introductory status. (Ord. 2004-01, Amended, 02/12/2004; 97-26, Amended, 05/27/1997)

Section 17-1-4-137.1 Promotions.

Promoted employees shall receive a pay increase of at least five percent (5%) at the time of the employee's appointment and are to be reviewed thereafter for possible step increases in accordance with the pay plan; however, no employee shall be paid more than the maximum pay for the pay grade to which the position is assigned. (97-26, Added, 05/27/1997)

Section 17-1-4-138 Shift pay differential.

A. Shift differential pay is hereby established at a premium rate of five percent (5%) over the hourly rate paid to qualifying shift employees, as defined in previous sections of this chapter, who are scheduled to work and do work a shift provided that at least fifty percent (50%) of the work is performed by the employee prior to 5:00 A.M. or after 5:00 P.M. Overtime hours do not count or qualify for the shift differential pay. (97-50, Amended, 07/12/1997; 97-26, Amended, 05/27/1997)

Section 17-1-4-139 Standby pay differential.

A. A regular employee may earn 10% standby pay differential of the daily pay rate under the following conditions:

1. Employees must be on call during the employees' nonduty time, including weekends and holidays during a period where no other employees in the division are scheduled and available to provide services.

2. Emergency call-out of regular employees on standby during the employees' nonduty hours will be subject to regular overtime pay in addition to standby pay as set forth herein;

3. An employee designated to be on standby who cannot be reached shall be subject to disciplinary action. (97-26, Amended, 05/27/1997)

Section 17-1-4-140 Pay for working out of classification.

A. If a regular employee is directed by the department director to perform the duties of an absent employee in a higher position classification on a temporary basis for at least one work day, the employee's daily pay rate will be increased by a ten percent (10%) premium pay for each day so directed.

B. To be eligible to receive "working out of classification" pay, an employee must be assigned to perform all duties of the classification to which assigned and must be fully responsible for such performance. (97-26, Amended, 05/27/1997)

Section 17-1-4-141 Longevity.

A. A regular employee shall commence accruing longevity pay credits upon completion of forty-eight (48) months of continuous service with the city to a maximum credit of twenty-one (21) years. For those qualifying regular employees, a longevity plan is established in accordance with the provisions of this section. Employees hired or former employees rehired on or after July 1, 2003, shall not be entitled/eligible for longevity pay as defined in Section 102 of this chapter or the provision hereinafter.

B. Procedures for payment of longevity are as follows:

1. Longevity pay shall be the period of service from June 1 to November 30, payable in December and December 1 to May 31, payable in June;

2. Except as otherwise provided for herein, regular employees who work ninety-six (96) hours (regular or shift) or more in any calendar month shall earn longevity pay for the entire month;

3. Only persons who are classified as regular full-time employees shall be considered for longevity pay for that calendar month, including for purposes of this section those persons otherwise qualified serving on active duty with the Armed Forces of the United States as specified in subsection D6;

4. Part-time employees and part-time employment periods of previous employment of now existing full-time employees will not be counted for longevity pay;

5. Retired persons no longer employed full-time by the city and persons who were once full-time and are now part-time employees will not be considered for longevity pay; and

6. Full-time persons who have transferred from department to department with no break in service shall be considered eligible for longevity pay to include all accumulated length of service. After November 30, 1972, persons drawing retirement benefits from the city who continue employment will not be eligible for longevity pay for the period for which they are receiving retirement benefits.

D. The effect of breaks in service on longevity qualification date and longevity earning date are:

1. After July, 1972, only continuous service without break will be counted for longevity benefits, except as provided in paragraph 3 of this subsection.

2. For the purpose of establishing years of service for longevity benefits for each employee for the employee's employment period to July 1, 1972, all full-time service prior to July 1, 1972, will be collectively accumulated and added together for total length of service; this time shall not include the period of the breaks in service.

3. For the purpose of establishing years of service for longevity pay for those regular employees who are reemployed after January 31, 1997, but before July 1, 2003, and who exercise their option of repaying the city's employee retirement system, all previous full-time service in the city's employment will be collectively accumulated and added together for total length of service. Such reemployed city employees will not be eligible to receive longevity benefits until after a one year waiting period after repayment into the city's employee retirement system. For the purpose of establishing years of service for longevity benefits for those regular employees who are reemployed before January 31, 1997, and who exercise their option of repaying the city's employee retirement system, all previous full-time service in the city's employment will be collectively accumulated and added together for total length of service. For those persons already employed by the city on January 31, 1997, who have exercised their option of repaying the city's employee retirement system prior to January 31, 1997, the first longevity payment for which they are eligible shall be made in June, 1997.

4. An unpaid leave of absence or a layoff of ninety (90) days or less shall not postpone the longevity qualification date of an employee;

5. An unpaid leave of absence (except military leave as outlined below) or layoff in excess of ninety (90) days shall postpone the longevity qualification date for the total period of separation, but time previously served toward the next longevity earning date shall be credited when the employee returns to the payroll; and

6. Military leaves of absence for employees who are members of the National Guard or Reserve Forces of the United States and who are ordered to active duty shall not postpone the longevity qualification or pay date of the activated employee. The pay date as set out herein shall also apply to persons serving on active duty with the Armed Forces of the United States. Longevity time shall accrue during such period of absence and payment shall be made on the normal date for payment as if the employee had not been absent when the absence is caused by such active duty. Subsection B2 of this section shall not apply to persons serving on active duty for one or more entire pay periods during a calendar month.

If after completion of the period of active service in the Armed Forces, such service being for more than thirty-one (31) consecutive calendar days, the employee fails to return to his/her employment with the city within the periods provided in the Uniformed Services Employment and Reemployment Rights Act, 1994, 38 U.S.C. 4301-4333, then in that event, the employee shall reimburse the city all sums received for longevity pay for the time period served in the active service of the military. Also if the employee leaves the active service with a separation or discharge of a lesser degree than an honorable discharge the employee shall be required to reimburse the city as set out above. If the employee is prevented through no fault of his/her own from returning to his/her employment the city manager has the authority to waive repayment for good cause shown.

E. An eligible employee who for any reason terminates employment with the city prior to June 1 or December 1 shall receive longevity pay on a prorated time basis for the calendar months served. (Ord. 2005-37, Amended, 06/28/2005; Ord. 2003-31, Amended, 07/17/2003; 98-25, Amended, 06/09/1998; 97-26, Amended, 05/27/1997) (2005-94, Amended, 11/22/2005)

Section 17-1-4-142 Pay at separation or termination.

Employees who are separated voluntarily or involuntarily will normally be paid on the next regular pay day. Checks will be mailed upon request. (97-26, Amended, 05/27/1997)

Section 17-1-4-143 Educational incentive program.

A. The city manager is authorized to establish an educational incentive program to financially assist regular full-time and regular part-time employees with educational opportunities.

B. Eligibility.

1. The recipient must be a regular full-time or regular part-time employee who is not on an introductory status. Employees employed under any type of employment agreements with the city are not eligible for such assistance.

2. Upon application to receive educational assistance, the employee's last performance evaluation must reflect an overall rating of standard or better.

3. The employee must receive a letter grade of "B" or above in college or university undergraduate courses, a grade of "B" or above in a graduate course or a certificate of satisfactory completion of a vocational education course or pass any eligible course that is graded as pass/fail. No reimbursement will be made for doctorate, PhD or other advanced degree courses or programs beyond Master's degree level.

4. Employees must research, apply for, and accept, if offered, any state and federal financial assistance available with the exception of government loans.

C. Application and Processing.

1. Eligible employees wishing to participate in the Educational Incentive Program must complete the application form for educational assistance for each course and forward the completed form to the Human Resources Department. The application must be approved by the employee's division supervisor and department director before the human resources director shall consider the application.

2. Each application must be made no later than two weeks prior to the start of a class. The following documents must be submitted with the application:

a. Student Aid Report (SAR) for the current calendar year.

b. Financial Assistance Award Statement from the academic institution that the student shall be attending that states the amount of education assistance received for each course.

Failure to provide a current Student Aid Report and a Financial Assistance Award Statement to the human resources department shall disqualify the student from receiving the educational incentive benefit from the city.

3. The human resources department is responsible for processing applications and reimbursements.

4. After submission of documentation proving satisfactory completion and tuition payment, the city will reimburse the employee at the established percentage. The employee shall submit documentation of completion of the course as follows: certificate of satisfactory completion for pass/fail courses or an official transcript from the institution which indicates the actual grade received; and all receipts for tuition from the institution.

D. Eligible Educational Expenses.

Employees who complete the course in accordance with the criteria specified in paragraph B, Section 3, shall be reimbursed an amount equal to sixty percent (60%) of the tuition cost after the application of financial aid for a grade of "B" or shall be reimbursed an amount equal to seventy-five percent (75%) of the tuition cost after the application of financial aid for a grade of "A". The reimbursement at either percentage rate is limited to a maximum amount based on the average of college credit hour costs as follows:

1. College credit hour average costs based on Oklahoma University, Cameron University, and Oklahoma State University plus ten percent (10%) per the following criteria:

a. Undergraduate and lower courses: Average credit hour amount based on a BS in Management from the three referenced colleges.

b. Graduate courses: Average credit hour amount based on graduate school rates for a MS in Management at the three referenced colleges.

c. MBA courses: Average credit hour amount based on an MBA from the three referenced colleges.

d. Other specialized courses not listed as an exception in Section B3 or Section E4 shall be considered by the HR Director and if approved will be reimbursed at a maximum rate as figured for the MBA in this section.

E. Criteria for Job Related Courses.

1. A course must be directly related to the employee's current job assignment or a position that the employee could reasonably be expected to qualify for in the next three to five years.

2. General education courses in fulfillment of a job related degree program are eligible provided the employee has submitted an outline to the Human Resources Department of courses required and elective courses to be taken to satisfy the degree requirement. The human

resources director must approve the outline/course curriculum.

3. Eligible employees may be reimbursed for a maximum of twelve (12) college credit hours, or equivalent per fiscal year; one vocational-technical course per trimester; or a combination of six college hours and two vocational-technical courses per fiscal year.

4. Distance learning, online courses and correspondence courses are eligible for the education incentive program provided that funds are available and the course meets the eligibility criteria for a job related course. The rate of reimbursement for these types of courses shall be based upon Section D at the rates figured for Graduate courses.

F. Program Monitoring.

The human resources director shall monitor assistance to eligible employees under the program and shall forward an annual report to the city manager by January 15 of each year.

(Ord. 2003-26, Amended, 05/16/2003; 97-26, Amended, 05/27/1997; 95-41, Amended, 09/12/1995)

(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-21, Amended, 05/23/2006)

Division 17-1-5

Hours of Work and Overtime

Sections:

17-1-5-151 Hours of work.

17-1-5-152 Overtime.

17-1-5-153 Exempt employees.

Section 17-1-5-151 Hours of work.

On recommendation to the personnel department and approval by the city manager, department directors may establish work schedules and work periods for regular employees to meet the department directors' special needs. Unless otherwise specified, controlled by contractual provisions or regulated by law, there is established for regular employees a series of seven day work periods for determining overtime hours worked. The seven day periods shall begin at 0001 hours, each Monday and shall end at 2400 hours, the following Sunday. Each succeeding seven day work period will begin immediately at the expiration of the prior seven day work period. Unless otherwise specified, the normal working hours for regular employees shall be 8:00 A.M. to 5:00 P.M. with one hour for lunch, five days a week. The city payroll periods shall include two normal work periods and payment shall be made as reasonable and proper in accordance with municipal accounting standards. (97-26, Amended, 05/27/1997)

Section 17-1-5-152 Overtime.

A. Employees may from time to time be expected to work overtime by the employees' respective supervisors; overtime shall be worked only with specific authorization of the supervisor.

B. All time worked in excess of forty (40) hours each established work period shall be paid at the rate of time and a half of the employee's regular hourly rate for such time worked in excess of forty (40) hours.

C. At the request of an employee and with the approval of the division supervisor, an employee may receive compensatory time in lieu of overtime pay, such compensatory time to be at the rate of one and one-half of the overtime actually worked. A non-exempt employee may accrue up to one hundred twenty (120) hours of compensatory time. A non-exempt employee who has accrued one hundred twenty (120) hours of such compensatory time shall, for additional hours of work, be paid overtime compensation. Any non-exempt employee who has accrued compensatory time off authorized to be provided in this section shall, upon separation from city service, be paid for unused compensatory time at the rate of compensation paid at the time of separation. (97-26, Amended, 05/27/1997)

Section 17-1-5-153 Exempt employees.

A. Certain positions within the classification plan are exempt from overtime in accordance with the Fair Labor Standards Act. This determination is based on duties, salary, requirements and responsibility definitions contained in the law. All employees whose duties, salary, job requirements and responsibilities classify them, in accordance with the Fair Labor Standards Act, as exempt employees shall not be charged for leave from work for any periods less than a full work day. All absences from the workplace for exempt employees for full work

days shall continue to be handled in accordance with the appropriate city leave procedures.

B. Non-exempt employees transferring or being promoted to an exempt position within the city shall use all accumulated compensatory hours as shown on the city's records prior to said promotion or transfer. If not used prior to said promotion or transfer, said employee shall be paid for said accumulated compensatory hours at the hourly rate of pay said employee was earning immediately prior to said promotion or transfer.

C. The personnel director or his designee shall identify those employees designated as exempt and shall notify the affected employees, the department directors and the payroll section for record keeping purposes. (97-26, Amended, 05/27/1997)

Division 17-1-6

Leave

Sections:

- 17-1-6-161** **Vacation.**
- 17-1-6-162** **Holidays.**
- 17-1-6-163** **Sick leave, on the job injury leave and bereavement leave.**
- 17-1-6-164** **Family leave.**
- 17-1-6-165** **Other leaves.**
- 17-1-6-166** **Conversion privileges.**
- 17-1-6-167** **Terminal leave.**
- 17-1-6-168** **Administrative leave.**

A. A regular employee shall be eligible to begin using vacation benefits on the date which is twelve (12) months after the first day of employment:

1. On completion of one year of service, a regular employee shall have eighty (80) hours credited to their vacation leave account.

2. For 1 through 4 years of service: Vacation shall accrue at the rate of 3.0770 hours per biweekly payroll period with a total of 80 hours per year;

3. For 5 through 8 years of service: Vacation shall accrue at the rate of 3.8462 hours per biweekly payroll period with a total of 100 hours per year;

4. For 9 through 12 years of service: Vacation shall accrue at the rate of 4.6154 hours per biweekly payroll period with a total of 120 hours per year;

5. For 13 through 16 years of service: Vacation shall accrue at the rate of 5.3846 hours per biweekly payroll period with a total of 140 hours per year;

6. For 17 or more years of service: Vacation shall accrue at the rate of 6.1539 hours per biweekly payroll period with a total of 160 hours per year; and

7. Regular employees shall be deemed to earn accrued vacation hours on a pro rata basis for any portion of a pay period in which the employees were on an authorized paid leave or actually worked. Regular employees on an authorized leave of absence without pay or on leave without pay status shall not accrue vacation leave during such time as they are absent from work on leave without pay.

B. A regular part-time employee shall be eligible to begin using vacation benefits on the date which is twelve (12) months after the first day of employment.

1. On completion of one year of service a regular part-time employee shall have forty (40) hours credited to their vacation leave account.

2. For 1 through 4 years of service: Vacation shall accrue at the rate of 1.5385 hours per biweekly payroll period with a total of 40 hours per year;

3. For 5 through 8 years of service: Vacation shall accrue at the rate of 1.9231 hours per biweekly payroll period with a total of 50 hours per year;

4. For 9 through 12 year of service: Vacation shall accrue at the rate of 2.0377 hours per biweekly payroll period with a total of 60 hours per year;

5. For 13 through 16 years of service: Vacation shall accrue at the rate of 2.6923 hours per biweekly payroll period with a total of 70 hours per year; and

6. For 17 or more years of service: Vacation shall accrue at the rate of 3.0770 hours per biweekly payroll period with a total of 80 hours per year.

C. No employee, regular or part-time, regardless of accrual, shall become vested with vacation time until after the completion of one full calendar year of employment.

D. Vacation shall accrue on a biweekly pay period basis and shall be credited each biweekly pay period following the first full calendar year of employment.

E. Seniority with the division now employed and total continuous service with the city shall be a factor a division supervisor uses to determine vacation time choice in each division or shift.

F. Vacation must be scheduled at least two weeks in advance or have the approval of the immediate supervisor.

G. Vacation hours may accrue to a maximum of two hundred eighty (280) hours plus the current years accrual for regular employees and one hundred forty (140) hours plus the current years accrual for regular part-time employees. Vacation hours in excess of the maximum of two hundred eighty (280) hours for regular employees and one hundred forty (140) hours for regular part-time employees not used prior to the last pay period in June of each fiscal year will be lost and there shall be no compensation paid therefore.

H. Regular employees shall be paid for all accrued hours of vacation time upon separation. Regular part-time employees shall be paid for all accrued hours of vacation time upon separation. Reimbursement shall be based on the employee's regular hourly rate of pay at the time of separation. (99-17, Amended, 03/09/1999; 97-26, Amended, 05/27/1997)

Section 17-1-6-161 Vacation.

A. A regular employee shall be eligible to begin using vacation benefits on the date which is twelve (12) months after the first day of employment:

1. On completion of one (1) year of service, a regular employee shall have eighty (80) hours credited to their vacation leave account.

2. For 1 through 4 years of service: Vacation shall accrue at the rate of 3.0770 hours per biweekly payroll period with a total of 80 hours per year;

3. For 5 through 8 years of service: Vacation shall accrue at the rate of 3.8462 hours per biweekly payroll period with a total of 100 hours per year;

4. For 9 through 12 years of service: Vacation shall accrue at the rate of 4.6154 hours per biweekly payroll period with a total of 120 hours per year;

5. For 13 through 16 years of service: Vacation shall accrue at the rate of 5.3846 hours per biweekly payroll period with a total of 140 hours per year;

6. For 17 or more years of service: Vacation shall accrue at the rate of 6.1539 hours per biweekly payroll period with a total of 160 hours per year; and

7. Regular employees shall be deemed to earn accrued vacation hours on a pro rata basis for any portion of a pay period in which the employees were on an authorized paid leave or actually worked. Regular employees on an authorized leave of absence without pay or on leave without pay status shall not accrue vacation leave during such time as they are absent from work on leave without pay.

B. A regular part-time employee shall be eligible to begin using vacation benefits on the date which is twelve (12) months after the first day of employment.

1. On completion of one (1) year of service a regular part-time employee shall have forty (40) hours credited to their vacation leave account.

2. For 1 through 4 years of service: Vacation shall accrue at the rate of 1.5385 hours per biweekly payroll period with a total of 40 hours per year;

3. For 5 through 8 years of service: Vacation shall accrue at the rate of 1.9231 hours per biweekly payroll period with a total of 50 hours per year;

4. For 9 through 12 year of service: Vacation shall accrue at the rate of 2.0377 hours per biweekly payroll period with a total of 60 hours per year;

5. For 13 through 16 years of service: Vacation shall accrue at the rate of 2.6923 hours per biweekly payroll period with a total of 70 hours per year; and

6. For 17 or more years of service: Vacation shall accrue at the rate of 3.0770 hours per biweekly payroll period with a total of 80 hours per year.

C. No employee, regular or part-time, regardless of accrual, shall become vested with vacation time until after the completion of one full calendar year of employment.

D. Vacation shall accrue on a biweekly pay period basis and shall be credited each biweekly pay period following the first full calendar year of employment.

E. Seniority with the division now employed and total continuous service with the city shall be a factor a division supervisor uses to determine vacation time choice in each division or shift.

F. Vacation must be scheduled at least two (2) weeks in advance or have the approval of the immediate supervisor.

G. Vacation hours may accrue to a maximum of two hundred eighty (280) hours plus the current years accrual for regular employees and one hundred forty (140) hours plus the current years accrual for regular part-time employees. Vacation hours in excess of the maximum of two hundred eighty (280) hours for regular employees and one hundred forty (140) hours for regular part-time employees not used prior to the last pay period in June of each fiscal year will be lost and there shall be no compensation paid therefore.

H. Regular employees shall be paid for all accrued hours of vacation time upon separation. Regular part-time employees shall be paid for all accrued hours of vacation time upon separation. Reimbursement shall be based on the employee's regular hourly rate of pay at the time of separation.

(99-17, Amended, 03/09/1999; 97-26, Amended, 05/27/1997)

Section 17-1-6-162 Holidays.

A. Regular employees shall be entitled to eleven (11) holidays per year. The holidays shall consist of six fixed holidays as designated herein and five flexible holidays.

B. Regular and regular part-time employees shall sustain no loss of pay for any biweekly payroll period in which a fixed holiday occurs which would normally be an employee's work day unless the employee is on leave without pay the day before or after the fixed holiday.

C. The following fixed holidays are hereby designated and shall be observed in accordance with the following provisions:

January 1-New Year's Day;

Memorial Day;

July 4-Independence Day;

Labor Day;

Thanksgiving Day; and

Christmas.

1. The department directors shall notify the human resources director by July 1 of each fiscal year the name and position of all shift employees. In lieu of overtime, all shift employees shall receive a holiday credit of eight hours or an additional eight hours of pay for each of the six fixed holidays. If the fixed holiday leave credit is not used during the fiscal year, shift employees shall be paid annually for all unused fixed holiday leave credits. The annual payment shall be made on the first non-payday Friday in May.

2. In lieu of overtime, regular, non-exempt employees and shift employees who are

not scheduled to work on a fixed holiday, but who are called on to work and do work on a fixed holiday, shall be paid for all hours actually worked on the fixed holiday at a rate which is one and one-half times their regular rate of pay. Such compensation shall be in addition to the regular payment for the fixed holiday and shall be paid at the next available payroll period following the fixed holiday.

3. It is the right of the immediate supervisor to determine who shall, to provide necessary services, work on a designated fixed holiday;

4. For those designated fixed holidays which fall on a weekend:

a. If the holiday falls on a Saturday, the preceding Friday will be considered the holiday; and

b. If the holiday falls on a Sunday, the following Monday shall be considered the holiday;

5. If an employee is sick, the employee will not be charged sick leave for the designated fixed holiday authorized during the absence;

6. If an employee is on vacation, the employee will not be charged vacation leave for the designated fixed holiday observed during the absence; and

7. Should the city council declare special fixed holidays, they shall be observed in accordance with the provisions of this section.

D. Flexible holidays may be observed by regular employees and regular part-time employees on a date mutually agreeable to the employee, the employee's immediate supervisor and the department director and shall be in accordance with the following provisions:

1. Regular employees with at least one year of current continuous service as of July 1 shall be allowed forty (40) hours flexible holiday time, to be used during the next fiscal year. Regular part time employees shall be allowed twenty (20) hours of flexible holiday time.

2. Regular employees and introductory employees with less than a year of current continuous service, shall be allowed a prorated amount of flexible holiday time based on the relationship of the months of service remaining during the fiscal year to twelve (12) months' service.

3. In submitting a request for flexible holiday time and in considering the request, the employee, the employee's supervisor, and the department director shall consider the level of service which must be provided by the city activity and the needs and desires of the employee.

4. Regular employees, regular part time employees and introductory employees must use their flexible holidays before the last payroll period in June of each year or otherwise unused flexible holidays will be lost and there shall be no compensation paid therefore.

5. Regular employees, regular part-time employees and introductory employees who separate from city service during the fiscal year will have flexible holiday time pro-rated at the rate of four (4) hours per month for the months of July through April of the current fiscal year. If an employee leaves service during these months and has used more than the accrued amount of flexible leave, the amount used over the accrued amount will be deducted from final payouts due the employee. If an employee leaves during the months of May and June, no deduction will be made as they will have accrued the full forty (40) hours flexible holiday time as of April 30 of the current fiscal year. Reimbursement shall be based on the employees regular hourly rate of pay at the time of separation. (99-17, Amended, 03/09/1999; 97-42, Amended, 08/26/1997; 97-26, Amended, 05/27/1997)

(Ord. 2008-48, Amended, 06/24/2008)

Section 17-1-6-163 Sick leave, on the job injury leave and bereavement leave.

A. Records of individual sick leave shall be kept current by the human resources

Addendum C

Fiscal Years 2008-2010

Page C-28

department and shall reflect earned sick leave in hours and all sick leave taken.

B. Regular employees shall accrue sick leave at the rate of 3.6923 hours per biweekly payroll period. Regular employees on an authorized leave of absence without pay shall not accrue sick leave during such time as they are absent from work on leave without pay.

C. Regular part time employees shall accrue sick leave at the rate 1.8461 hours per biweekly payroll period. Regular part-time employees on an authorized leave of absence without pay shall not accrue sick leave during such time as they are absent from work on leave without pay.

D. ORDINARY SICK LEAVE

For illness or injury that occurred off the job or as provided in Section 164 of this chapter, the following shall apply:

1. The employee may use all accrued sick leave, after which time the employee must use vacation time or take leave without pay. The manner in which additional time off will be allowed shall be the sole responsibility of the city manager or the city manager's designated representative;

2. For any period in excess of twenty-four (24) work hours for continuous absence for regular employees, the supervisor may require a doctor's certificate of illness prior to allowing the individual to return to work;

3. When regular employees use forty (40) hours of continuous sick leave, the supervisor may require a physical examination of the employee, at the employee's expense prior to allowing the employee to return to work;

4. The supervisor may require an employee, at the employee's expense, to submit a doctor's certificate of illness, or may require a physical examination, attesting to the necessity of the employee being absent from work because of illness for any subsequent injury or illness if the employee has taken twelve (12) days of ordinary sick leave in the immediately preceding twelve-month period;

5. In the event a supervisor has reason to believe that an employee is misusing sick leave privileges, the supervisor shall require the employee to provide a doctor's certificate of illness for any future illnesses regardless of the length of illness. In such event, the supervisor shall give written notice to the employee, stating the reasons supporting the belief that sick leave privileges have been misused. Failure by the employee to provide the requested doctor's certificate shall be grounds for disciplinary action;

6. Sick leave may be used by an employee in the event the employee determines it is necessary to stay home to attend to any other member of the immediate family who is ill. Sick leave may also be used in the case of a death in the immediate family. If the employee's absence due to caring for such family member exceeds the times set out in b, c or d above, the supervisor may require similar evidence of illness or physical condition to be provided regarding the member of the immediate family.

7. If an employee becomes ill and cannot report for work, the employee must contact the employee's supervisor at least within the first ten minutes of the employee's regular reporting time, unless otherwise instructed by the supervisor. Failure to report within such time will cause the absence to be charged to leave without pay. Emergency situations which might prohibit compliance with reporting shall be taken into consideration by the supervisor.

8. A regular employee may accrue an unrestricted number of sick leave hours during the employee's term of employment.

9. Except for normal retirement where terminal leave is requested, sick leave cannot be used for compensation during employment immediately prior to separation from city employment.

10. Except for normal or early retirement as defined, employees who separate from employment with the city will be compensated for all accrued but unused sick leave as follows: The employee's accrued number of sick leave hours will be multiplied times 2.5 percent times the total number of years of service for the employee times the hourly rate of pay the employee was receiving immediately prior to the separation of employment. Employees who are terminated from employment shall receive no compensation for accrued sick leave benefits.

11. Upon the death of an employee, the employee's estate shall be reimbursed for all unused sick leave accrued after January, 1971, in accordance with Subsection D.10. of this section.

12. Upon normal or early retirement of an employee who has not requested terminal leave, the employee will be reimbursed for all accrued but unused sick leave in accordance with subsection D.10. However, in anticipation of retirement, an employee may request that accrued sick leave be converted to terminal leave to be used immediately prior to the employee's retirement date.

13. Because many diseases are communicable, a supervisor may require an employee to go home if in the supervisor's opinion the individual is not only jeopardizing the individual's health, but also greatly increasing the possibility of affecting the health of other employees. Such absence will be charged against accrued sick leave, if available; if not, it will be charged to vacation leave or leave of absence without pay.

E. On the Job Injury Leave.

1. An employee who incurs an injury or occupational illness arising out of and in the course of employment with the City of Lawton may be entitled to up to twenty-six (26) weeks of on-the-job injury leave, also referred to as "on duty injury leave." This benefit provides full salary continuation in lieu of the lower temporary total disability (TTD) benefits prescribed by the state workers compensation law. There will be no charge against the employee's accrued leave balances. The employee will receive this benefit if the following prerequisites are met:

a. It is uncontested that the injury or illness is compensable under Oklahoma workers compensation law.

b. The employee's supervisor is provided with a duty excuse from the physician treating the employee for the injury or illness indicating that it is a medical necessity that the employee be excused from work. The duty excuse(s) must cover the entire period(s) for which an employee is granted on-the-job injury leave or is on TTD. On-the-job injury leave or placement on TTD cannot be used unless the lost time is ordered by a qualified physician.

2. The rules for use of on-the-job injury leave will be the same as those governing the use of TTD benefits as prescribed by the Oklahoma workers compensation law except supervisors may charge as on-the-job injury leave reasonable, documented hours required for necessary follow-up doctor visits and therapy appointments for cases where the employee has been released to return to work, but has not been released from treatment. The provisions of this subsection are in addition to the on-the-job injury leave limitation in E.1. above. In no event shall this additional on-the-job injury leave exceed four hours in any one workday nor shall it be granted on the last day of the employee's work week.

3. When an official City of Lawton holiday falls during a period where an employee's lost work time is being charged as on-the-job injury leave, the holiday will be charged as on-the-job injury leave if both the employee's last scheduled workday before the holiday and the next scheduled workday after the holiday are charged to on-the-job injury leave.

4. In the event an employee remains temporarily totally disabled after exhausting the equivalent of twenty-six (26) weeks of on-the-job injury leave, the employee will be placed on leave without pay status in the city's payroll system but will receive weekly TTD benefits

through the city's workers compensation administrator at the state mandated rate. While in this status, employees will be required to continue providing to their superiors reports of duty status from their treating physicians. Employees in such status will not be allowed to use their accrued leave to augment the TTD payments or in lieu of on-the-job injury leave or in lieu of receiving TTD while on leave without pay status as a result of an on-the-job injury. While an employee is in on-the-job injury leave status or receiving TTD benefits they will not pursue other employment or receive compensation for employment by an alternative source.

5. If an employee pursues a settlement for permanent disability benefits for injury or illness, the city, where allowed by law, may petition the court for credit for over-payment of TTD against any such benefits. An exception may be made when such credit is waived as part of a negotiated settlement.

6. All on-the-job injury leave and TTD benefits cease once an employee has been released by the treating physician to return to work (except as indicated in paragraph E.2. above), has been released from medical treatment, or has been rated for permanent disability. If after being released from treatment or rated for permanent disability, the employee's treating physician, or other qualified physician to which the employee is referred, determines the employee will not be able to return to work in his assigned position, the legal services department Administrator and the Human Resources Department will take action to obtain any additional medical information as required for an informed and equitable resolution of the employee's employment status with the city. If the employee agrees that return to work in the assigned position is not feasible even with reasonable accommodation and does not request accommodation by assignment to another position with the city, no additional medical information may be required. However, if such a request for accommodation is made, the employee may be referred by the human resources department for additional medical evaluation and testing to obtain a quantitative measure of the physical capabilities of the employee. The results of such testing will be used to determine if the employee is physically able to perform the essential functions of the assigned or other position with the city. If the employee is unable to safely perform the essential functions of the assigned position, the human resources department will attempt to accommodate the employee by assignment to a vacant city position for which the employee is qualified. If no such position is available, the employee will be terminated from employment with the city, but if eligible may pursue vocational rehabilitation benefits through the workers compensation system.

7. When an employee is released to return to work by the employee's treating physician after being absent while recovering from an injury or illness, the employee's department director, in coordination with the human resources director, may direct the employee to undergo medical evaluation to determine the employee's physical fitness to safely perform in the employee's assigned position. Such evaluation will be appropriate when it is suspected that the employee has not recovered sufficiently to return to work or it is determined that the employee has incurred significant permanent disability. If the evaluation indicates the employee is physically unable to perform the essential functions of the assigned position, accommodation procedures as detailed in the preceding paragraph will be followed. The employee will continue to receive temporary total disability payment from the date of release from the treating physician until allowed to return to work or terminated from the assigned position.

8. Time used for on-the-job injury leave or while receiving temporary total disability benefits will be deducted from the family leave allowances as provided in Section 164 of this chapter.

9. An employee who remains on a combination of on-the-job injury leave and/or temporary total disability paid by the city's third party workers compensation administrator for

longer than one thousand forty (1040) hours is not assured reinstatement to the position held at the time of the injury.

F. Bereavement Leave. The city manager, upon recommendation of the department head, may grant bereavement leave with pay, for not more than twenty-four (24) working hours per occurrence for regular full-time employees in the case of the death of a member of the immediate family. This absence will not be chargeable against accrued sick leave. However, an employee, with approval of the supervisor, may take additional time as set out above, in which case the additional time off shall be charged against the employee's accrued sick leave. (Ord. 2005-19, Amended, 04/26/2005; Ord. 2003-34, Amended, 07/01/2003; 98-39, Amended, 10/13/1998; 98-25, Amended, 06/09/1998; 97-26, Amended, 05/27/1997)

Section 17-1-6-164 Family leave.

A. Employees who have worked for the city for at least twelve (12) months and have performed at least one thousand two hundred fifty (1,250) hours of service during that time, are entitled under the Family and Medical Leave Act to take up to twelve (12) weeks of unpaid family leave during any twelve (12) month period. Family leave time is permitted for the birth, adoption, or serious illness of a child; to care for a parent or spouse with a serious illness; or for the employee's own serious illness.

B. The following definitions shall apply:

1. "Child" means son or daughter under eighteen (18) years old or if over eighteen (18) years old or older is incapable of self care because of mental or physical disability.

2. "Son" or "daughter" means a biological, adopted or foster child, a step child, a legal ward or a child of a person standing in the place of a parent.

3. "Parent" means the biological father or mother of the employee or an individual who stood in place of the biological father or mother when the employee was a son or daughter. This term does not include "in-law".

4. "Spouse" means the husband or wife of the employee as the case may be. This term does not include an unmarried domestic partner.

5. "Serious illness" means an illness, injury, impairment or physical or mental condition that involves either:

(a) In-patient care in a hospital, hospice, or residential medical care facility; or continuing treatment by a health care provider, or

(b) Any period of incapacity requiring absence from work of more than three calendar days, that also involves continuing treatment by or under the supervision of a health care provider, or

(c) Continuing treatment by or under the supervision of a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or for prenatal care.

6. "Health care provider" means those providers as defined by Section 825.118 of Title 29 part 825 of the Code of Federal Regulations.

7. "Continuing treatment" means treatment by a health care provider is defined by Section 825.114(b) of Title 29 part 825 of the Code of Federal Regulations.

8. "Twelve (12) month period" means a "rolling" twelve (12) month period measured backward from the date an employee uses any Family Medical Leave Act leave. Each time an employee takes Family Medical Leave Act leave the remaining leave entitlement would be any balance of the twelve (12) weeks which has not been used during the immediately preceding twelve (12) months.

C. Family Leave expiration. The right to family leave for the birth, adoption or

placement of a foster child expires twelve (12) months after the birth, adoption or placement of a foster child with the employee for foster care by the employee.

D. Both spouses working for the city. The total family leave that may be taken by both spouses who are employees of the city shall not exceed a total of twelve (12) weeks if the leave is taken for birth, adoption or placement of a foster child or parent. This does not apply to the employee's own illness, the care of the employee by the spouse or to care for a child with a serious health condition.

E. Family Leave may be taken on an intermittent or reduced schedule if certified medically necessary for serious illness, subject to the limitation of a total of twelve (12) work weeks in a twelve (12) calendar month period. Leave for the birth or adoption of a child cannot be taken on an intermittent or on a reduced schedule. An employee on intermittent or reduced scheduled leave may be temporarily reassigned without loss of pay or benefits.

1. Reduced leave means a leave that reduces the employees normal number of hours per work week or work day.

2. Intermittent leave means a leave of one hour or more but under twelve weeks in duration.

F. The following procedures shall apply when requests for family leave are made:

1. If the need for leave is foreseeable, the employee must provide reasonable advance notice of at least thirty (30) days to the immediate supervisor.

2. If the leave is needed to care for a sick child, spouse or parent or for the employee's own health condition, the employee must provide a certification from the health care provider which states:

(a) Date of commencement of serious health condition; and

(b) Probable duration of the condition; and

(c) Appropriate medical facts; and

(d) Confirmation that the serious health condition warrants the participation of a family member; and

(e) For an employee's own health condition, that the employee is unable to perform the employee's job function.

3. A request for family leave based on non-medical emergency with less than thirty (30) day's notice may be denied where undue hardship to the city's operations would result.

4. The city may deny a family leave request to care for a child except for child birth, adoption, or placement where the child's other parent is already taking family leave or is not employed.

5. An employee taking family leave will be allowed to continue participating in the city health benefit plan in which the employee was enrolled prior to the first day of the leave. The employee will be required to make payments for employee only and, if applicable, dependent coverage in which the employee was enrolled prior to the first day of the leave.

6. The city requires that employees taking family leave substitute any accrued paid leave during the period of leave. Such substitution will count toward the twelve (12) work weeks allowed. The term "paid leave" includes vacation, sick leave, fixed holidays, flexible holidays and leave bank time. Sick leave is not required to be used by the employee if the reason for the family leave is child birth, adoption or placement unless the employee so chooses.

7. Leaves taken on an intermittent or reduced schedule must be recertified every three calendar months.

8. Employees taking leave under this section for the employees own serious illness shall be required to provide a certificate from a health care provider certifying that the employee is able to return to work to perform their normal duties with no limitation. The Americans with

Disabilities Act provisions shall be applied on a case by case basis.

9. The employee shall report to his or her supervisor at least weekly on his or her status and the employee's intention to return to work if the leave period exceeds two weeks duration. Said reporting requirements shall commence on the second Friday of the leave period and every Friday thereafter.

G. If the employee is unable or fails to return at the end of the twelve (12) week family leave period, the employee's right to continued employment shall cease on the earlier of one of the following dates.

1. On the date the employee advises the city that the employee does not intend to return to work.

2. If the employee is physically able to return and the cause for the leave no longer exists then said date is retroactive to the first date of said leave and any premium paid by the city in maintaining the employee health coverage shall be reimbursed by the employee to the city.

3. If the condition still exists for which the leave was authorized, the date shall be the last day of the twelve (12) week period. The city shall not be entitled to recovery of the city's portion of the employee's health coverage. (Ord. 2003-41, Amended, 08/26/2003; 97-26, Amended, 05/27/1997)

Section 17-1-6-165 Other leaves.

A. Military leave. Full-time and part-time employees who are ordered by proper authority to active military service shall be entitled to and shall accrue their full regular pay and benefits for the first thirty (30) calendar days in each federal fiscal year from the city while on such leave.

B. Leave without pay. When circumstances justify, department directors may grant leaves of absence without pay for periods not to exceed one week. Additional leave without pay must be approved by the city manager, or the city manager's designated representative, who shall be the sole determiner of the length of such additional leave. No leave will be granted under this subsection for the purpose of enabling employees to accept temporary employment with other employers. The provisions on leave without pay status applicable to regular employees shall also apply to introductory employees.

C. Attendance at conferences, schools, etc. Department directors may grant absences with pay, together with necessary travel and expense allowances as deemed proper and provided for in the city budget, to permit regular employees to attend conferences, schools and similar events designed to improve the employee's knowledge and efficiency, and considered as being beneficial and in the best interest of the city.

D. Civic duty. Employees who are required by due process of law to render jury service shall receive the employees' regular pay from the city during such period; however, employees excused from such duty during the employees' regular city duty hours shall return immediately to the employees' city duty station. Civic duty leave shall not apply to a court appearance, or giving testimony by deposition during city's business hours involving the employee's personal interest either as a plaintiff or defendant, or in matters which do not involve the employee in the performance of his duty as an employee of the city, or in matters in which the city is not a party to the action.

E. Employee of the month/year. The city manager is authorized to establish an employee of the month award and employee of the year program for city employees. Awards for the employee of the month and employee of the year program shall include two days nonchargeable leave without loss of pay to the employee selected as employee of the month.

F. Leave Bank Transfer. The city manager is authorized to establish a program of

leave transfer which will allow employees to transfer leave to other employees or to a leave bank for use in emergency medical or sick leave situations.

G. Safety Incentive Awards. The city manager is authorized to grant leave to employees as a reward for continuous years of safe driving and injury free service in accordance with incentive programs approved by the city council. A maximum of three days nonchargeable leave without loss of pay may be granted per year to any employee. (97-26, Amended, 05/27/1997)
(Ord. 2008-16, Amended, 02/12/2008)

Section 17-1-6-166 Conversion privileges.

A. If a non-shift employee transfers to a shift employee, all benefits credited to the employee's record at the time of transfer will be converted to represent the new status as if all credits had been earned as a shift employee on the basis that the employee will be charged for the use of benefits at the rates indicated for shift employees.

B. If a shift employee transfers to a non-shift employee, all benefits credited to the employee's record at the time of transfer will be converted to represent the new status as if all credits had been earned as a regular employee on the basis that the employee will be charged for the use of benefits at the rates indicated for regular employees. (97-26, Amended, 05/27/1997)

Section 17-1-6-167 Terminal leave.

A. A regular full-time employee after establishing a date of retirement from City of Lawton employment may elect to use accrued vacation and sick leave as terminal leave. The employee must provide a request for terminal leave to his/her department director not less than sixty (60) days from the date the terminal leave is to begin. The request must specify the date of retirement and the date the requested terminal leave is to begin.

B. The amount of terminal leave authorized will not exceed the total amount of sick leave, flexible leave and vacation leave hours that the employee has accrued at the time the request is submitted. All vacation and flexible leave hours must be used before sick leave hours can be taken.

C. Once the request for terminal leave is accepted and the retirement date is established, the request cannot be rescinded. If unforeseen circumstances prior to the date the terminal leave is scheduled to begin result in an employment using an amount of accrued leave sufficient to cause leave balances to be less than that required to cover the period of terminal leave requested, the employee will be required to adjust the effective date of the terminal leave or the date of retirement accordingly.

D. An employee's accrued vacation leave balance must be exhausted before accrued sick leave may be used as terminal leave.

E. While on terminal leave, an employee will not accrue additional sick or vacation leave, flexible holidays, or longevity benefits.

F. Employees in terminal leave status will continue to be paid through the city's payroll system for a maximum of 80 hours per pay period. Compensation will not include any pay for shift differential. All employee benefits, except as noted in this section, will be continued until the established retirement date. (Ord. 2005-05, Amended, 02/08/2005; Ord. 2003-33, Add, 07/01/2003)

Section 17-1-6-168 Administrative leave.

A. In certain circumstances there exists a need to place employees on administrative leave, which depending upon the situation may be either without or with pay. The determination of whether an employee is placed on administrative leave, as well as the nature and length of any such leave, shall be at the sole discretion of the city manager.

1. Instances appropriate for administrative leave without pay shall include:

a. An employee who is accused by indictment, complaint and information or charged with a crime, whether misdemeanor or felony, regardless of whether or not said employee is incarcerated, may be placed on administrative leave without pay by the city manager following a meeting between the employee and the employee's department director or the city manager. After the meeting, the employee will be notified of the reason for being placed on administrative leave without pay. The employee will not earn, receive or accrue vacation, sick leave, compensatory time, flexible holiday time or other benefits during the period of administrative leave without pay. If the employee is later exonerated from all the accusations arising from such indictment, complaint and information, or charge, the employee may be: (1) reinstated to his/her former or similar position, and (2) credited with the wages and benefits that would have accrued during the term of the administrative leave by compensating the employee with full back pay and crediting the employee with vacation leave, sick leave, compensatory time, flexible holiday time, longevity and retirement creditable service benefits. If the employee is convicted, agrees to plead "no contest", or pleads guilty on any of the indictments, complaint and information or charge, the employee may be terminated retroactive to the first day of the administrative leave, following a hearing. During the period of administrative leave without pay, the employee may use, upon the employee's written request, accrued vacation, holiday leave, earned flexible holiday time and earned compensatory time, but those hours will not be reinstated for the benefit of the employee if such employee is exonerated from all the accusations arising from such indictment, complaint and information, or charge, and will be an offset against any wages that may be otherwise due. During the period of administrative leave without pay, such employee and the employee's dependents may continue in the city's health plan if the employee continues to pay the required premiums for single and dependent health plan coverage as appropriate.

b. Pending an investigation of a serious charge arising from an allegation or series of allegations of a breach of employment rules, regulations or procedures, an employee, following a meeting between the employee and the employee's department director, may be placed on administrative leave without pay by the city manager, when the allegation(s), if found to be true, would most likely result in the termination of employment. The employee will not earn, receive or accrue vacation, sick leave, compensatory time, flexible holiday time or other benefits while on administrative leave without pay. If the employee is ultimately terminated, the termination will be retroactive to the first day of the administrative leave. If the employee is not terminated but is otherwise disciplined, the employee will subsequently be permitted to return to work for the City, but will not be credited with the wages and benefits that would have accrued during the term of the administrative leave. If the employee is not terminated or otherwise disciplined the employee will be (1) reinstated to his/her former or similar position and (2) credited with the wages and benefits that would have accrued during the term of the administrative leave by compensating the employee with full back pay and crediting the employee with vacation leave, sick leave, compensatory time, flexible holiday time, longevity and retirement creditable service benefits. During the period of administrative leave without pay, the employee may use, upon the employee's written request, accrued vacation, holiday leave, earned flexible holiday time and earned compensatory time, but those hours will not be reinstated for the benefit of the employee if the employee is exonerated from the accusations of wrongdoing and will be an offset against

any wages that may be otherwise due. During the period of administrative leave without pay, the employee and the employee's dependents may continue in the city's health plan if the employee continues to pay the required premiums for single and dependent health plan coverage as appropriate.

2. An employee may be placed on administrative leave with pay when an incident of such a serious nature occurs involving the employee that an investigation is warranted and there exists the possibility of the employee receiving discipline from the incident. In such an instance the employee's department director with the approval of the city manager may place the employee on administrative leave with pay for the period of the investigation, but in no event shall such leave exceed five of the subject employee's working days without written approval from the city manager. If written approval is given the city manager may extend such leave beyond the initial five day limitation. Following any such extension the city manager shall reevaluate every seven calendar days the need for keeping the employee on administrative leave with pay, and if it is determined the leave should continue, re-authorize in writing the continuation of the leave. Nothing in this subsection shall grant an employee a right to be placed on administrative leave with pay in lieu of administrative leave without pay.

B. Incarcerated employees are subject to the disciplinary actions and procedures established in Division 17-1-7, Chapter 17. The following rules are applicable to the pay and benefits of incarcerated employees:

1. An employee who is incarcerated will be allowed to use any accrued vacation or compensatory time during such period of incarceration. An incarcerated employee who has expended all of the employee's accrued vacation and compensatory time shall not be eligible for any type of administrative leave.

2. An incarcerated employee who is later exonerated will not be entitled to back pay or vacation, sick leave, compensatory time, flexible holiday, longevity or retirement creditable service benefits lost or used during such periods of incarceration. Such periods of incarcerations are outside the control of the City of Lawton and the employee can not perform any productive labor during such periods.

C. In the event the city manager is out of the State of Oklahoma for more than one business day or is on any type of leave, the assistant city manager shall have authority to take action under this section on behalf of the city manager. Likewise, in the event a department director is out of the State of Oklahoma for more than one business day or is on any type of leave, that department's deputy director shall have authority to take action under this section on behalf of the department director. If the department does not have a deputy director, then the individual designated in writing as acting department director shall have authority to act under this section on behalf of the department director.

(2005-93, Added, 11/22/2005)

Division 17-1-7

Discipline and Grievances

Sections:

- 17-1-7-171** **Disciplinary actions.**
- 17-1-7-172** **Authority to take disciplinary actions.**
- 17-1-7-173** **Corrective action.**
- 17-1-7-174** **Administrative grievance procedures.**

Section 17-1-7-171 **Disciplinary actions.**

A. There is conduct, misconduct, action, and inaction, both passive and active which may subject any employee to disciplinary action for the good of the service. The following acts or failure to act, although not all inclusive, are representative of the types of activities or inactivities, which may result in disciplinary action:

1. Willful violations of these personnel rules;
2. Repeated and habitual tardiness or early departure from work;
3. Unauthorized absence from duty;
4. Abuse of sick leave;
5. Unsatisfactory performance of the quantity or quality of work considered standard for the position;
6. Failure to carry out a lawful direct instruction by a supervisor;
7. Negligent or willful destruction of property while on or off duty;
8. Misappropriation or unauthorized use of city funds, equipment, tools, machines or supplies;
9. Use of the employee's city position for private gain;
10. Acceptance of a gratuity or gift in violation of the other provisions of these personnel rules;
11. Discourtesy to the public;
12. Aggravated and habitual inability to get along with fellow workers;
13. Unauthorized use of controlled dangerous substance or intoxicants while on duty;
14. Arrest for or conviction of a felony or a misdemeanor involving moral turpitude or otherwise bearing directly upon the suitability of the employee for performance of the duties of the position;
15. Conduct prejudicial to the reputation of the city government or conduct that otherwise bears directly upon the suitability of the employee for performance of the duties of the position;
16. Inciting or engaging in strikes or riots;
17. Intentional falsification of material facts in an application for employment or promotion, or in any official investigation involving misconduct under these rules, or in preparing any report or document required by the employee's duties.
18. Violations of the city code, council and administrative policies and department rules or regulations.
19. Repeated and habitual smoking in designated nonsmoking areas.
20. Assaulting a fellow employee or citizen.
21. Sexual harassment as defined in City Council Policy 3-1.

22. Other forms of harassment as defined in City Council Policy 3-3.

B. Any disciplinary action against an employee must be given no later than fifteen (15) working days following either the date of the act or inaction by the employee which gives rise to the need for discipline or the date when the supervisor, division head, or department director first became or should have become knowledgeable of the employee's act or inaction. This limitation shall not apply in cases where an investigation is being conducted that may lead to possible criminal action, in cases involving accident or injury under review by the appropriate vehicle or personal injury review board or in cases involving violation of discrimination statutes such as sexual discrimination, sexual harassment, racial discrimination, etc. If additional investigation is deemed necessary by the disciplining authority following a predetermination hearing between the disciplining authority and the employee, a reasonable time not to exceed an additional thirty (30) calendar days will be allowed to conduct any follow up investigation.

C. No disciplinary action will be taken against an employee for providing or disclosing information as provided in the federal or state "whistle blowing" statutes as provided in 5 U.S.C. § 2302 (b)(8) or 74 O.S. § 840-2.5.

(Ord. 2003-41, Amended, 08/26/2003; 97-26, Amended, 05/27/1997)

(Ord. 2006-50, Amended, 07/11/2006; 2005-93, Amended, 11/22/2005)

Section 17-1-7-172 Authority to take disciplinary actions.

A. No disciplinary action other than a warning shall be taken by anyone below the rank of a division supervisor:

1. Only a division supervisor, department director or the city manager may issue a written reprimand;

2. Only a department director or the city manager may levy a disciplinary suspension of ten (10) days or less;

3. Only the city manager may levy a disciplinary suspension of more than ten (10) days or an involuntary demotion or termination;

4. In a situation where it is impossible to hold a meeting with the department director and where a supervisor recognizes the safety of the community or other employees is at risk, the employee may be sent home with pay pending the setting of a hearing; and

5. All employees sent home with pay in accordance with subsection 4 of subsection A of this section will attend a meeting with the supervisor and the department director the next scheduled work day or as soon thereafter as possible.

B. Department directors and division supervisors and section and unit leaders are expected to make firm disciplinary recommendations to higher authority.

C. Involuntary nonpaid extra duty shall not be levied against any employee. (97-26, Amended, 05/27/1997)

Section 17-1-7-173 Corrective action.

A. "Warning" is a formal written record telling the employee that the employee's behavior or productivity must improve or some more forceful action will be taken. A warning should normally precede any of the actions described below, however, there are certain behaviors and activities which will support other disciplinary actions on the first occurrence. The type and severity of the behavior or activity will determine the type of discipline to be employed. Nothing herein is intended to limit the right of the disciplining authority to initiate higher levels of discipline on the first incident.

1. The warning may be issued by a field supervisor, division supervisor, department

director or the city manager and must be presented and discussed with the employee. A witness may be present.

2. A copy of the warning will be given to the employee and a copy will be placed in the individual's official personnel records. The employee, witness and supervisor will sign the warning letter or form. If the employee refuses to sign the warning letter or form a notation to that effect will be entered in the letter or form.

3. The warning, in addition to proper identification of all parties, should include where appropriate:

a. The behavior or work performance for which the warning is being given and the specific improvements expected.

b. The time limit within which improvement must be made.

c. A specific offer on the part of management to assist the employee in the expected improvement.

d. A statement of any prior counseling given to the employee.

e. An indication, in general terms, of further action to be taken if there is delayed or insufficient improvement.

B. "Reprimand" is a formal written record of a serious disciplinary matter concerning an employee directing permanent improvement in the employee's productivity or behavior:

1. The reprimand must be issued by a division supervisor, department director or the city manager and the reason for the reprimand must be presented and discussed with the employee. A witness must be present.

2. A copy of the reprimand will be given to the employee and a copy will be placed in the employee's official personnel records. The employee, witness and supervisor will sign the reprimand letter or form. If the employee refuses to sign the reprimand, a notation to that effect will be entered in the letter or form.

3. The reprimand, in addition to proper identification of all parties, should include where appropriate:

a. The behavior or work performance for which the reprimand is being given and the specific improvements expected;

b. The time limit within which improvement must be made;

c. A specific offer on the part of management to assist the employee in the expected improvement;

d. A statement of any prior counseling and warnings given the employee;

e. An indication, in general terms, of further action to be taken if there is delayed or insufficient improvement; and

f. Any other pertinent material which may add to the issue of the disciplinary action.

C. "Suspension" is the temporary removal from duty and permanent withholding of pay of an employee for a specific period to bring about improvement in performance or behavior. The following procedures apply:

1. A suspension without pay may be imposed by either a department director, or the city manager. Suspensions of more than ten (10) work days must be sent to the city manager for approval prior to taking effect for formal approval. Suspensions of ten (10) work days or less require the approval of the department director;

2. A suspension must be levied during consecutive work days and may not be broken into several periods of working days;

3. Prior to initiating a suspension action a meeting with the employee, the employee's supervisors and the employee's department director is to be held:

a. The purpose of the meeting is to review the facts and discover any additional information pertaining to the case and to determine the employee's attitude for improvement. Consequently, a written statement should not be completed before the employee has had the opportunity to discuss the situation;

b. At the meeting the employee is to be notified of the specific violation, conduct or misconduct alleged, a general overview of the evidence against the employee, and the employee will be given an opportunity to respond to the violations, conduct, misconduct alleged and evidence. Violation, conduct or misconduct alleged must be set forth clearly and concisely to enable the employee to understand and answer.

c. After conducting the meeting and considering the information presented, the department director will take appropriate action. If the department director determines that a suspension of ten (10) work days or less is warranted for the good of the service, he will impose the suspension. If he determines that a suspension of more than ten (10) work days is warranted for the good of the service, he will make that recommendation to the city manager who will make the final decision.

d. The employee must be advised in writing of the employee's rights concerning administrative review and formal appeal procedures.

4. A personnel action form and notice of suspension form will be completed for all suspensions. In addition, a written statement constituting the notice, and describing the violation conduct or misconduct and disciplinary action, will be prepared.

a. Notice of suspension must be signed by the appropriate disciplining authority, and prepared in sufficient copies for direct and immediate distribution without delay to the employee, the division supervisor, the department director, the personnel director and the city manager, as appropriate;

b. A uniform notice of suspension form may be prepared by the personnel director. The form should include sufficient information to show the reason for the suspension, number of days suspended, acknowledgment by the employee, distribution, and other information deemed pertinent and necessary by the personnel director.

5. If it has been possible to meet with the employee, notice of suspension should be handed directly to the employee before the employee leaves the work premises. In any event, proof of delivery is to be recorded; and

6. If the notice cannot be given to the employee before the employee leaves the work premises or cannot be delivered by the supervisor or his designee at the employee's home, the notice shall be mailed by U.S. Mail, certified return receipt requested.

D. Demotion or termination. The appointing authority has the responsibility for demoting or terminating the employment of an employee. An individual may be reduced in grade or in step. Classified employees demoted or terminated may appeal to the personnel board. Demotion or termination should normally be taken only after other discipline has been taken or the performance or behavior is of such nature that demotion or termination is warranted for the good of the service.

1. A demotion or termination may be initiated by a division head or higher authority. Action must be routed through the department director to the city manager for approval or disapproval.

2. Prior to initiating a demotion or termination action, a meeting with the employee, the employee's supervisor and the department director is to be held:

a. The purpose of the meeting is to review the facts and discover any additional information pertaining to the case.

b. At the meeting the employee is to be notified of the specific violation, conduct or

misconduct alleged, a general overview of the evidence against the employee, and the employee will be given an opportunity to respond to the violations, conduct, misconduct alleged and evidence. Violation, conduct or misconduct alleged must be set forth clearly and concisely to enable the employee to understand and answer.

c. After conducting the meeting and considering the information presented, the department director will take appropriate action. If the department director determines that demotion or termination is warranted for the good of the service, he will make that recommendation to the city manager who will make the final decision. If the city manager determines that the employee should be demoted or terminated from city's employment, he will sign the personnel action form. The department director's recommendation to the city manager will be accompanied by a personnel action form and the reason for such recommendation. The department director will immediately notify the employee of the city manager's decision. If the city manager demotes or terminates the employee from city's employment, he will sign the personnel action form, and the department director will notify the employee of his right of appeal to the personnel board.

3. A uniform notice of demotion/termination form may be prepared by the personnel director. The form should include sufficient information to show the reason for the demotion/termination, acknowledgement by the employee, distribution, and other information deemed pertinent and necessary by the personnel director.

4. The employee subject to demotion or termination must be made aware of the employee's appeal rights in writing; and

5. Actions of this nature are to be based on a thorough investigation at the departmental level in conjunction with the personnel department, the city manager's office, and, if necessary the city attorney.

E. Denial of a step pay increase. In connection with any disciplinary action, a supervisor may recommend to whomever makes final decision that an employee be denied any step pay increase for which the employee is actively under consideration. (97-26, Amended, 05/27/1997)

Section 17-1-7-174 Administrative grievance procedures.

A. Any employee having a grievance shall have the right to appeal the grievance without fear of reprisals from the exercising of this right.

B. Such appeal is to be first presented to the employee's immediate supervisor in writing. If the aggrieved employee needs clerical assistance in preparing the written appeal, such assistance will be available, upon request, from the personnel department.

C. The supervisor receiving the grievance is to carefully consider the matter, arrive at a full understanding, and give the employee a clear and specific answer within three working days. The response is to be in writing, and a copy of the appeal and response be transmitted to the department director.

D. If the employee is not satisfied with the answer from the immediate supervisor, the employee may, within three working days, appeal to the department director and such appeal is to be made in writing. The department director, after full consideration of the facts and circumstances, must render a decision in writing within three working days from the date of receiving the appeal. A copy of the appeal and response will be transmitted to the city manager.

E. An employee not part of a bargaining unit recognized by the City may appeal a layoff, suspension of more than ten (10) working days, demotion, or removal to the personnel board. (97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)

Division 17-1-8

Personnel Board

Sections:

- 17-1-8-181 **Membership-Term of office-Vacancy-Removal-Compensation.**
- 17-1-8-182 **Qualification of members.**
- 17-1-8-183 **Conflict of interest of board members.**
- 17-1-8-184 **Meetings of the board-Voting.**
- 17-1-8-185 **Board counsel.**
- 17-1-8-186 **Quorum.**
- 17-1-8-187 **Eligibility to appeal.**
- 17-1-8-188 **Action by the city manager.**
- 17-1-8-189 **Appeal by employee.**
- 17-1-8-190 **Hearing on appeal.**
- 17-1-8-191 **Findings of the board.**

Section 17-1-8-181 Membership-Term of office-Vacancy-Removal-Compensation.

A. The board shall be composed of three members appointed by the city council on nomination of the mayor for overlapping six-year terms and the members shall be residents of the city during the term of their office.

B. The original members shall be appointed so that the term of one member will expire at that time in each of the first three succeeding even-numbered years.

C. The term of one member shall begin July 1 in every even-numbered year.

D. The council, by a vote of at least six affirmative votes, after adequate opportunity for a public hearing, may remove a member for cause; and the vote shall be by roll call and shall be entered in the journal of the council.

E. The council, on nomination by the mayor, shall fill vacancies for unexpired terms.

F. All board members shall serve without compensation unless the council provides otherwise. However, funds will be provided for a reasonable and necessary expense as authorized by the city manager. (97-26, Amended, 05/27/1997)

Section 17-1-8-182 Qualification of members.

A. Board members shall not:

1. Hold any office or position in city government; or
2. Be a relative of any city employee within the third degree of affinity or consanguinity. (97-26, Amended, 05/27/1997)

Section 17-1-8-183 Conflict of interest of board members.

A. In the event that a member of the board becomes in conflict with the qualification requirements as set forth in Section 17-1-82 of this code:

1. The board member must either resign from the personnel board or resign from all offices which place the member in violation of the above section;
2. Failure of the board member to resign from such conflicting offices shall result in the member being recalled by the city council; and
3. Board members who resign from such conflicting offices must submit a written statement outlining their compliance with the provisions of this chapter to the city clerk, who

shall immediately provide copies of the statement to the mayor, members of the city council and the city manager.

B. If any member of the board appears to have a possible conflict with a particular hearing on appeal, either through personal relationship with the appellant or having prior knowledge of the circumstances surrounding the discipline imposed on the appellant, the board member shall advise the two other members of the board and the mayor of such possible conflict, whereupon the mayor, without the consent of the city council, shall appoint a substitute board member or members to sit on the hearing and to participate in the deliberation decision of the board with respect to that hearing only. (97-26, Amended, 05/27/1997)

Section 17-1-8-184 Meetings of the board-Voting.

A. The board shall hold at least one regular organizational meeting annually at a time and place determined by the board and may hold such additional meetings as may be called by the chairman, or by the written authority of two board members. Each member of the board shall be given at least twenty-four (24) hours written notice prior to the meeting.

B. All meetings of the board shall be open to the public except that the board may meet in executive session following a hearing on appeal provided that no vote shall be taken during an executive session.

C. Board members shall publicly cast their respective votes, in open session, in favor of or against a motion which has been seconded. An abstention vote shall count as a negative vote. (97-26, Amended, 05/27/1997)

Section 17-1-8-185 Board counsel.

The board may retain legal counsel from time to time as may be necessary for fulfilling the responsibilities of the board as set out herein, and necessary expenses for such counsel shall not be unreasonably withheld. (97-26, Amended, 05/27/1997)

Section 17-1-8-186 Quorum.

A quorum of two seated board members is necessary for a hearing. (97-26, Amended, 05/27/1997)

Section 17-1-8-187 Eligibility to appeal.

All employees of the classified service of the city shall have the right of appeal to the personnel board on matters of layoff, suspension of more than ten (10) working days, demotion, or removal. (97-26, Amended, 05/27/1997)

Section 17-1-8-188 Action by the city manager.

The city manager shall, at the time of layoff, suspension without pay for more than ten (10) working days, or the demotion or removal of any classified employees, or within two calendar days thereafter, deliver or have delivered in person, or mail by registered, certified or similar special mail to the employee notice of the action taken by the city manager and a written statement of the reason or reasons for the layoff, suspension, demotion or removal. (97-26, Amended, 05/27/1997)

Section 17-1-8-189 Appeal by employee.

A. Classified employees may appeal from the action of the city manager by filing a

written request for appeal with the city clerk, provided:

1. The appeal must be filed within ten (10) days from the time the employee has received a written notice of the action taken, and such written appeal must be accompanied with a copy of the notice of action taken; and

2. Any written appeal made after ten (10) days following written notice of action taken shall not be heard or considered by the board.

B. Any appellant may withdraw an appeal at any time in writing or by default by failing to appear at the hearing, in which case:

1. The employee waives the right of appeal, and the action of the city manager shall be final; and

2. The employee may not file a subsequent appeal on the same action. (2000-48, Amended, 12/12/2000; 97-26, Amended, 05/27/1997)

Section 17-1-8-190 Hearing on appeal.

A. Upon receipt of a request for an appeal, the city clerk shall immediately notify each member of the board, city manager and the city attorney.

B. The city clerk shall schedule a hearing within not less than five calendar days nor more than thirty (30) calendar days from the date of the filing of the appeal with the city clerk and the board shall cause a written notice of the hearing to be provided to the appellant, city manager and the city attorney.

C. During the hearing the board has the power to hear and determine the facts. The hearing shall be conducted according to such procedures as may be established by the board. The board may subpoena officers and employees of the city and other persons to testify and produce documents and other evidence, and, shall permit the appellant and the city manager to be heard and to be represented by counsel, provided the city shall not be responsible for the costs of counsel for the appellant.

D. If the city manager or his representative fails to appear at the hearing, the board may hear the evidence as offered by the appellant and issue its findings and recommendations to the city manager. If the appellant fails to appear at the hearing, the board will find the appellant in default and recommend that the action of the city manager be sustained.

E. All hearings shall be recorded by the city clerk pursuant to procedures established by the board. In addition, a certified court reporter, paid by the party requesting said reporter, may record the proceedings. If the appellant requests a typed copy of the proceedings, the appellant shall pay the cost of preparing such copy based on the hourly wage of the person transcribing the proceedings. The party requesting a transcript of the proceedings recorded by the court reporter will pay for such transcript with a copy provided to the other party.

F. Any continuance of the hearing shall be to a time and place definite. (97-26, Amended, 05/27/1997)

Section 17-1-8-191 Findings of the board.

A. At the conclusion of the hearing, the board by majority vote shall report in writing its findings and recommendations, in cases of subordinates of the city manager, to the city manager, and in other cases to the respective authorities having power of removal. If the board finds that the layoff, suspension, demotion or removal was made for a political reason or reasons or for any other reason or reasons than the good of the service, it shall veto the layoff, suspension, demotion or removal and such action shall be nullified. Provided, however that if only two board members are present on an appeal from a disciplinary action imposed by the city

manager, a tie vote between the two board members shall result in sustaining the action of the city manager.

B. The board shall cause written notice of its finding, along with any statement relating thereto, to be mailed to the appellant and delivered to the city manager within forty-eight (48) hours of its findings.

C. The findings and recommendations of the board shall not deprive the appellant or the city manager from other rights established in the city Charter or state statutes. (97-26, Amended, 05/27/1997)

Article 17-2

PERSONNEL REGULATIONS CONTINUED

Divisions:

- 17-2-9 Employee Advisory Committee**
- 17-2-10 Political Activity**
- 17-2-11 Miscellaneous Provisions**
- 17-2-12 Equal Employment Opportunity**
- 17-2-13 Conflict of Interest**

Division 17-2-9

Employee Advisory Committee

Sections:

- 17-2-9-201 Reserved.**
- 17-2-9-202 Reserved.**
- 17-2-9-203 Reserved.**
- 17-2-9-204 Reserved.**
- 17-2-9-205 Reserved.**
- 17-2-9-206 Reserved.**
- 17-2-9-207 Reserved.**
- 17-2-9-208 Reserved.**
- 17-2-9-209 Reserved.**
- 17-2-9-210 Reserved.**
- 17-2-9-211 Reserved.**
- 17-2-9-212 Reserved.**
- 17-2-9-213 Reserved.**
- 17-2-9-214 Reserved.**
- 17-2-9-215 Reserved.**
- 17-2-9-216 Reserved.**
- 17-2-9-217 Reserved.**
- 17-2-9-218 Reserved.**

There is hereby created an employee advisory committee for the purpose of hearing matters of employee grievances, appeals of suspensions without pay for ten (10) working days or less, and for making recommendations to the city administration regarding working conditions, personnel rules and regulations, benefits, compensation, and other personnel matters directly affecting the employees of the city. The employee advisory committee which is in existence at the time of the adoption of this division shall continue to exist until the committee provided for in this division is formed as hereinafter provided. (97-26, Amended, 05/27/1997)

Section 17-2-9-201 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

Section 17-2-9-202 Reserved.

(Ord. 2003-43, Amended, 09/09/2003; 97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

Section 17-2-9-203 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

Section 17-2-9-204 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

Section 17-2-9-205 Reserved.

(97-26, Amended, 05/27/1997)

(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006; Ord. 2006-22, Amended, 05/23/2006)

Section 17-2-9-206 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)

Section 17-2-9-207 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

Section 17-2-9-208 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

Section 17-2-9-209 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)

Section 17-2-9-210 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)

Section 17-2-9-211 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)

Section 17-2-9-212 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)

Section 17-2-9-213 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)

Section 17-2-9-214 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

Section 17-2-9-215 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

Section 17-2-9-216 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)

Section 17-2-9-217 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)

Section 17-2-9-218 Reserved.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)

Division 17-2-10

Political Activity

Sections:

17-2-10-221 Political activity.

Section 17-2-10-221 Political activity.

A. Regulations governing city elective office and political activities are as follows:

1. No employee of the city while on duty or in uniform may work for or against, or attempt to influence, the nomination, election, or defeat of any candidate for mayor or councilmember, or the recall of the mayor or any councilmember; but this shall not prohibit the ordinary exercise of one's right to express his opinions and to vote. Any federal statutes restricting or prohibiting the political activities of employees shall supersede the provisions of this code and state law if applicable as to such employees; and

2. Any employee of the city desiring to seek municipal office, as described in articles 2 and 6 of the city Charter, shall resign from municipal service prior to filing for the municipal elective office.

B. As to county, state, federal or other elective office, the following apply:

1. No paid employee of the city shall be a candidate for county, state or federal elective office or to any elective office with an agency which has a jurisdiction within the geographical city limits of Lawton, Oklahoma, without said officer or employee complying with the leave provisions indicated in subsection 2 below;

2. Each paid employee of the city who desires to seek any county, state or federal elective office or any other elective office with an agency which has a jurisdiction which includes the geographical city limits of Lawton, Oklahoma, shall be placed on leave status a minimum of fourteen (14) calendar days prior to any primary, primary runoff or general election;

3. On recommendation of the employee's department director, the city manager shall place employees on leave status in excess of the time periods indicated in subsection 2 of this subsection in circumstances where the employee's candidacy interferes with official job duties with the municipal service or where said additional leave time would be in the best interests of the municipal service and the city;

4. Leave status as described herein shall be recorded as vacation leave or flexible holiday time up to and including the total amount of time accrued by the individual. All additional leave time shall be recorded as leave without pay; and

5. The city manager or the city manager's designated representative shall be the sole determiner of the individual's leave status consistent with the provisions of this section.

C. Violation of any of the provisions of this section shall be grounds for immediate dismissal from the municipal service. (97-26, Amended, 05/27/1997)

Division 17-2-11

Miscellaneous Provisions

Sections:

- 17-2-11-231 Employee orientation.
- 17-2-11-232 Nepotism.
- 17-2-11-233 Age requirements.
- 17-2-11-234 Interdepartmental promotions.
- 17-2-11-235 Change of status.
- 17-2-11-236 Return of property.
- 17-2-11-237 Reporting of accidents.
- 17-2-11-238 Investigation of accidents.
- 17-2-11-239 Layoff.
- 17-2-11-240 Employee performance evaluation.
- 17-2-11-241 Repair, replacement or reimbursement of personal property.
- 17-2-11-242 Employee incentive programs-Declaration of public purpose-Appropriation.
- 17-2-11-243 Furlough.

The department directors and supervisors shall insure that all new employees are properly oriented. Such orientation training includes the duties of the position, the hours of work, relationship to the other employees, safety precautions, the rights and obligations of an employee, and information about the unit and department. The new employee should be made welcome and be encouraged to ask questions, especially during the employee's first weeks at work. The employee shall also be shown a set of these rules. The personnel department will also present a briefing on these personnel rules and other personnel matters for all new employees within the first forty-five (45) days of employment. (97-26, Amended, 05/27/1997)

Section 17-2-11-231 Employee orientation.

The department directors and supervisors shall insure that all new employees are properly oriented. Such orientation training includes the duties of the position, the hours of work, relationship to the other employees, safety precautions, the rights and obligations of an employee, and information about the unit and department. The new employee should be made welcome and be encouraged to ask questions, especially during the employee's first weeks at work. The employee shall also be shown a set of these rules. The personnel department will also present a briefing on these personnel rules and other personnel matters for all new employees within the first forty-five (45) days of employment. (97-26, Amended, 05/27/1997)

Section 17-2-11-232 Nepotism.

A. No person related within the third degree of affinity or consanguinity (marriage or blood) to the mayor, a member of the city council, city manager, assistant city manager or similar position or department directors shall be appointed to any office, position or clerkship or other service of the city, either on a full-time or part-time basis. No person related within the third degree of affinity or consanguinity to a division supervisor or an assistant department director may be appointed to or transferred into any office, position or clerkship or any other

service of the city which is in the same department where the assistant department director is employed or the same division where the division supervisor is employed. For purposes of this subsection, "major" positions within the police department and deputy fire chief positions shall be deemed to be assistant department directors. No person related within the third degree of affinity or consanguinity to any employee of the personnel department shall be appointed to any office, position or clerkship or any other service of the city.

B. For purposes of clarification of relationships specified in Section 8-6 of the Charter, the following relatives shall be considered as within the third degree of affinity or consanguinity (marriage or blood): Sons; daughters; grandsons; granddaughters; great-grandsons; great-granddaughters; brothers; sisters; nephews; nieces, aunts; uncles; primary cousins; grandfathers; grandmothers; granduncles; grandaunts; great-grandfathers; great-grandmothers; son-in-law; daughter-in-law; grandson-in-law; granddaughter-in-law; great grandson-in-law; great granddaughter-in-law; brother-in-law; sister-in-law; nephew-in-law; niece-in-law; aunt-in-law; uncle-in-law; primary cousins-in-law; grandfather-in-law; grandmother-in-law; granduncle-in-law; grandaunt-in-law; great-grandfather-in-law; great-grandmother-in-law; grandnephew; grandniece; grandnephew-in-law; grandniece-in-law; stepson; stepdaughter; stepfather; stepmother; husbands; and wives. For clarification, a divorce decree shall be deemed to dissolve all relationships arising by that marriage.

C. This section shall not be applied to adversely affect any employee hired on or before June 24, 1986. (Ord. 2005-18, Amended, 04/26/2005; 97-26, Amended, 05/27/1997)

Section 17-2-11-233 Age requirements.

A. Minimum and maximum ages for initial employment will vary in accordance with the duties and responsibilities of the positions, the conditions under which they are to be performed, and also according to the best interests of the city as determined by the department director and the city manager.

B. No person under the age of eighteen (18) shall be employed with the city any job that has been defined as hazardous by the Secretary of Labor for the United States. No person under sixteen (16) years of age shall be employed in any position with the city. The Personnel Department shall be responsible for maintaining the list of jobs that have been defined as hazardous by the Secretary of Labor of the United States. (97-65, Amended, 11/25/1997; 97-26, Amended, 05/27/1997)

Section 17-2-11-234 Interdepartmental promotions.

The personnel department shall identify opportunities for regular employee promotions and shall call them to the attention of the respective department director or qualified employee. (97-26, Amended, 05/27/1997)

Section 17-2-11-235 Change of status.

All employees shall report changes of address, telephone number, number of dependents, marital status, name and the like to the personnel department in writing. (97-26, Amended, 05/27/1997)

Section 17-2-11-236 Return of property.

At the time of separation and prior to receiving the final pay check, an employee shall return all tools, uniforms or other city property issued to the employee in the course of the employee's employment. (97-26, Amended, 05/27/1997)

Section 17-2-11-237 Reporting of accidents.

A. Any employee involved in a vehicle accident shall promptly report it to the employee's supervisor. The employee shall promptly prepare, or request the supervisor to prepare for the employee's signature, a report of the accident. The supervisor shall transmit the accident report to the safety officer via the supervisor's department director. The department shall retain a copy of the report.

B. Any employee having knowledge of an accident shall, whether he was involved or not, similarly report the facts to his or her immediate supervisor. (97-26, Amended, 05/27/1997)

Section 17-2-11-238 Investigation of accidents.

The supervisor shall cause an investigation to be made of all reported accidents to determine the facts and to determine the action to be taken and shall consult such other officials as appropriate in connection with such investigations. (97-26, Amended, 05/27/1997)

Section 17-2-11-239 Layoff.

A. In the event the city determines that a layoff of city employees is necessary, it shall carry out the layoff with the following consideration:

1. Downgrading or separation of regular employees will be avoided or held to a minimum;
2. No layoff will be taken until the affected classifications have been identified; and
3. No regular employee shall be separated from any department while there are introductory, temporary or part-time employees serving in the same or similar classifications in the respective department.

B. When a layoff becomes necessary within any department, the department director, the personnel director, and the city manager shall determine which employee or employees will be separated after consideration of:

1. Performance of the employee by review of the last three performance evaluations of the employee; and
2. Layoffs shall be in reverse order of total service with the city when the qualifications of the employees to perform available work are substantially equal.

C. Any employee being laid off shall be given notice as soon as possible and shall be given written notice not less than ten (10) working days prior to separation. The employee is to sign a written acknowledgment of notice of the separation action.

D. The employee subject to separation will be considered for available positions, throughout the city for which the employee is qualified, in the order listed, as follows:

1. A lateral transfer to a vacant full-time position;
2. A lateral transfer to a position filled by an employee in a introductory status;
3. A transfer to a position at a lower pay grade filled by a introductory employee;
4. A lateral transfer to a vacant part-time position;
5. A transfer to a vacant part-time position at a lower pay grade; or
6. Separation.

E. The city shall make every reasonable effort to assist the separated employee in finding another job, including:

1. Requesting local employment offices, appropriate firms, and federal and state

agencies for their assistance; and

2. Posting at city facilities of information regarding vacancies with other employers.

F. For a period of six months from the date of separation, such separated employee shall be advised by the city of positions in the city service prior to opening the recruitment to general applicants, and such notice may be given by telephone or mail to the last such telephone number or address provided by the separated employee.

G. In the event of the reemployment of a regular employee within six months from the regular employee's lay-off date, such employee will be restored to the same seniority status as of the last day of previous employment, and the date of hire for sick leave, vacation, longevity, and retirement will reflect the original date of hire. This provision applies to regular employees who were reemployed by the city as of January 31, 1997.

H. In the event an employee accepts appointment to a position at a lower pay grade, the employee shall not be reduced in pay by more than the highest step in the grade assigned to the lower position.

I. Once an employee is identified as an employee to be laid off according to the above process that employee will have the following options:

1. Within ten (10) days after being notified of being laid off, the employee may elect to receive as a lump sum severance pay the amount of pay the employee would receive as regular pay during the subsequent ninety (90) day period. If this option is taken employee will lose all protections available under this section including, but not limited to the right to be notified and all seniority status.

2. An employee may elect to stay on the payroll for the subsequent ninety (90) days at regular salary and be entitled to all the provisions of this section, except there shall be no severance pay at the end of the ninety (90) day period. (97-26, Amended, 05/27/1997)

Section 17-2-11-240 Employee performance evaluation.

Every employee of the city shall be evaluated by the employee's supervisor regarding the performance of the employee at least annually on the anniversary of the completion of introductory status or promotion and in accordance with such forms and procedures as shall be developed by the personnel department and approved by the city manager. (97-26, Amended, 05/27/1997)

Section 17-2-11-241 Repair, replacement or reimbursement of personal property.

A. Subject to the provisions of subsection B of this section the city shall repair, replace or reimburse an employee, within a reasonable length of time, for any of the personal property items listed below which are suddenly and unexpectedly damaged, destroyed or lost as a result of on-the-job duties:

1. Eyeglasses;
2. Contact lenses;
3. Dentures;
4. Braces;
5. Wedding ring (maximum \$150.00);
6. Hearing aids;
7. Civilian clothing (maximum \$100.00);
8. Watches (maximum \$75.00); or
9. Jewelry (maximum \$75.00).

B. If the negligence of the employee contributes to or is the cause for the need to

repair, replace or reimbursement of an employees personal property which is suddenly or unexpectedly damaged, destroyed or lost, then the employee shall bear the cost and responsibility of repair or replacement of the lost or damaged personal property. Denial of any repair, replacement or reimbursement under the provisions of this subsection may be appealed through the administrative grievance procedures as provided in Section 17-174 of this code.

C. An employee shall be required to provide the city with a written statement concerning the circumstances surrounding the damaged, destroyed or lost personal property.

D. An employee shall be required to provide the city with a written estimate of repair, replacement or reimbursement of the damaged, destroyed or lost personal property.

E. The city may require an employee to provide additional information to determine the validity of the claim.

F. Payment of claims for repair, replacement or reimbursement of damaged, destroyed or lost personal property shall be made from the respective employee's division budget. (97-26, Amended, 05/27/1997; 95-33, Amended, 07/08/1995)

Section 17-2-11-242 Employee incentive programs-Declaration of public purpose-Appropriation.

A. The city council recognizes and acknowledges the value of the services performed by city employees for the benefit of the city, its citizens and the public. Employees morale and welfare contribute immensely to the efficiency and performance of employees thereby enhancing their dedication and job performance to the city and the public. In recognition of the services performed by city employees for the public, the city council hereby declares the expenditures of funds for certain incentive programs and activities for the benefit of employees constitute a public purpose.

B. The programs in which public funds may be appropriated and expended for city employees include morale activities, incentives and special recognition programs, safety programs such as and similar type activities and programs as may, from time to time, be authorized by ordinances, resolutions or council policy.

C. These incentive programs shall include annual city employees picnic, injury prevention program, driver improvement and safety program, employee of the month/year program, employee suggestion program, and employee retirement recognition. (97-26, Amended, 05/27/1997; 96-17, Amended, 04/09/1996)

Section 17-2-11-243 Furlough.

A. Pursuant to the Lawton City Charter, Section C-2-4, the city council may consider furloughs for exempt and non-exempt employees. As part of it' s consideration, the city council shall be presented information from the city manager regarding the present and/or anticipated financial status of the city's budget and other options, if any, for curing any current or anticipated shortfall. In the event the city council determines that a mandatory furlough of city employees shall be necessary due to current and/or anticipated budgetary shortfall(s), the city council may direct the city manager to prepare a plan to implement furloughs necessary to alleviate a specific budgetary shortfall. Mandatory furlough means the involuntary temporary reduction of work hours or the placement of an employee on involuntary leave without pay due to a current or anticipated budgetary shortfall(s). A mandatory furlough due to budgetary shortfall(s) is not a disciplinary action and is not eligible for appeal . The furlough shall be executed in compliance with the following rules promulgated hereunder:

1. The plan shall project the amount of the budgetary shortfall, which necessitates

implementing mandatory furloughs and the projected number of days each employee will be furloughed to satisfy the budgetary shortfall.

2. Each department director shall post a schedule for implementing the furlough plan, which will include every employee within each department. No individual employee should be furloughed more than two days during any workweek. The plan shall be designed so that every employee in each department receives an equal number of furlough days.

3. The furlough plan shall be posted in each departmental office at least fifteen (15) days prior to implementation. The plan shall specify the employees being furloughed and the effective dates of the mandatory furlough.

4. Employees shall not be assigned a status of "On-Call" or required to attend any training or scheduled to attend any other activity which could constitute hours worked during a mandatory furlough day. A mandatory furlough day shall not be included as hours worked for purposes of determining eligibility for overtime compensation.

5. Notwithstanding existing laws or provisions to the contrary, the mayor shall call upon the members of the city council to voluntarily donate to the general fund any portion of their salary, which would otherwise have been received during the mandatory furlough period.

6. The director of finance shall report the cumulative departmental cost savings achieved through mandatory furloughs monthly to the city manager as long as the mandatory employee furlough is in effect.

7. Reduction in hours due to mandatory furlough days shall not affect the status of employees as such is defined in Chapter 17, Division 17-1-1, Section 17-1-1-102 Lawton City Code.

8. Reduction in hours due to mandatory furlough days shall not affect any leave accrual or other benefits which employees are entitled to under this chapter.

9. Employees on mandatory furlough days shall not be entitled to substitute any form of leave for a furlough day, except those employees on an on the job injury leave status will be exempt from this provision as long as the on the job injury status is in effect.

B. Notwithstanding the provisions of paragraph two of Section A, if in the city manager's determination the health and safety of the citizens of Lawton will be affected by the furlough of specific positions, then the city manager may designate specific positions which are exempt from the furlough plan. The city manager shall notify the city council of the positions he has determined should be exempted to protect the health and safety of the citizens and the city manager shall state the reasons the positions are exempted for the health and safety of the citizens. In such an event, no prior notice of the amendment of the plan is required. (Ord. 2003-30, Add, 07/01/2003)

(Ord. 2007-41, Amended, 07/10/2007)

Division 17-2-12

Equal Employment Opportunity

Sections:

- 17-2-12-251 Equal employment opportunity program.**
- 17-2-12-252 Reserved.**
- 17-2-12-253 Reserved.**
- 17-2-12-254 Reserved.**
- 17-2-12-255 Career development.**
- 17-2-12-256 Reserved.**
- 17-2-12-257 Reserved.**
- 17-2-12-258 Discrimination prohibited.**

A. The human resources director is hereby designated as the equal employment opportunity manager for the city, to ensure that the equal employment opportunity policies are carried out, and may delegate such duties as set forth herein to a member of the staff of the human resources department.

B. The human resources director shall maintain a continuous review of the equal employment opportunity program of the city. The human resources director shall monitor appointments, promotions, pay increases, dismissals and other personnel actions and may investigate the facts surrounding the actions for compliance with the equal employment opportunity policies. The human resources director shall publicize the equal employment opportunity policy to employees, employment agencies and other sources of recruitment, vendors and contractors, and the public. The human resources director shall be responsible for the training of all supervisors, including appointing authorities, in equal employment opportunity.

C. The human resources director shall conduct active recruiting campaigns to attract qualified candidates for employment, promotion, etc. without regard to race, color, religion, sex, national origin, age, marital or veteran status, political affiliation, disability, or any other legally protected status. The human resources director shall maintain a list of sources of recruitment of minority persons and of women with managerial, professional, technical and other special skills and shall maintain contacts with such sources for the purpose of obtaining qualified candidates when recruiting to fill vacancies.

D. Any employee or candidate for employment who believes that the employee or candidate for employment has been discriminated against is encouraged to bring the matter to the attention of the human resources director whether or not the employee has discussed the matter with the employee's immediate superior or has or has not filed a grievance or complaint. (99-27, Amended, 06/22/1999; 97-26, Amended, 05/27/1997)

Section 17-2-12-251 Equal employment opportunity program.

A. The Human Resources Director is hereby designated as the equal employment opportunity manager for the city, to ensure that the equal employment opportunity policies are carried out, and may delegate such duties as set forth herein to a member of the staff of the human resources department.

B. The Human Resources Director shall maintain a continuous review of the equal employment opportunity program of the city. The Human Resources Director shall monitor appointments, promotions, pay increases, dismissals and other personnel actions and may investigate the facts surrounding the actions for compliance with the equal employment opportunity policies. The Human Resources Director shall publicize the equal employment opportunity policy to employees, employment agencies and other sources of recruitment, vendors and contractors, and the public. The Human Resources Director shall be responsible for the training of all supervisors, including appointing authorities, in equal employment opportunity.

C. The Human Resources Director shall conduct active recruiting campaigns to attract qualified candidates for employment, promotion, etc. without regard to race, color, religion, sex, national origin, age, marital or veteran status, political affiliation, disability, or any other legally protected status. The Human Resources Director shall maintain a list of sources of recruitment of minority persons and of women with managerial, professional, technical and other special skills and shall maintain contacts with such sources for the purpose of obtaining qualified candidates when recruiting to fill vacancies.

D. Any employee or candidate for employment who believes that the employee or candidate for employment has been discriminated against is encouraged to bring the matter to the attention of the Human Resources Director whether or not the employee has discussed the matter with the employee's immediate superior or has or has not filed a grievance or complaint. (99-27, Amended, 06/22/1999; 97-26, Amended, 05/27/1997)

Section 17-2-12-252 Reserved.

(99-27, Amended, 06/22/1999; 97-26, Amended, 05/27/1997)

Section 17-2-12-253 Reserved.

(99-27, Amended, 06/22/1999; 97-26, Amended, 05/27/1997)

Section 17-2-12-254 Reserved.

(99-27, Amended, 06/22/1999; 97-26, Amended, 05/27/1997)

Section 17-2-12-255 Career development.

The human resources director shall conduct a career development program for employees in the city service. The human resources director shall identify employees who are qualified for advancement or who may become so qualified through further training and keep records of those employees' potential for advancement. The human resources director shall also identify positions for which such employees may be qualified, without regard to departmental lines, and when vacancies arise in positions so identified shall encourage the appointing authorities to seriously consider such employees who submit applications. (99-27, Amended, 06/22/1999; 97-26, Amended, 05/27/1997)

Section 17-2-12-256 Reserved.

(99-27, Amended, 06/22/1999; 97-26, Amended, 05/27/1997)

Section 17-2-12-257 Reserved.

(99-27, Amended, 06/22/1999; 97-26, Amended, 05/27/1997)

Section 17-2-12-258 Discrimination prohibited.

A. No employee of the city shall be discharged or otherwise discriminated against with respect to his or her compensation, terms, conditions or privileges of employment, or limited, segregated or classified in any way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee, on account of such employee's race, color, religion, age, sex, national origin or qualified disability.

B. No applicant for employment shall be refused employment or otherwise discriminated against with respect to the compensation, terms, conditions or privileges of potential employment, or limited, segregated or classified in any way which would deprive or tend to deprive the applicant of employment opportunities or otherwise adversely affect his or her status as an employee, on account of such applicant's race, color, religion, age, sex, national origin or qualified disability.

C. No employee of the city or applicant for employment shall be employed, promoted, disciplined or in any other way favored or disfavored for a political reason or reasons or for any other reason or reasons than the good of the service; provided, however, that a political reason or reasons does not include discipline imposed for engaging in prohibited political activities. (99-27, Amended, 06/22/1999; 97-26, Amended, 05/27/1997)

Division 17-2-13

Conflict of Interest

Sections:

- 17-2-13-261 Declaration of policy.
- 17-2-13-262 Definitions.
- 17-2-13-263 Disclosure of interest.
- 17-2-13-264 Statement of economic interest-Contents.
- 17-2-13-265 Disclosure of information.
- 17-2-13-266 Securing special privileges.
- 17-2-13-267 Conduct after termination of employment.
- 17-2-13-268 Campaign contributions.
- 17-2-13-269 Use of city property-Special advantages and treatment.
- 17-2-13-270 Incompatible employment.
- 17-2-13-271 Private business activities.
- 17-2-13-272 Representing private interest before city.
- 17-2-13-273 Restriction on agency membership.
- 17-2-13-274 Complaints and investigations.
- 17-2-13-275 Hearing panel-Notice and hearing.
- 17-2-13-276 Penalties.
- 17-2-13-277 Appeal.

The council declares that elected, appointed officials and city employees operate under a public trust; and any effort to realize personal gain through official conduct is a violation of that trust. Elected, appointed officials, and city employees shall not only be impartial and devoted to the best interests of the city, but also shall so act and conduct themselves, both inside and outside the city's service, as not to give occasion for distrust of their impartiality or of their devotion to the city's best interests. (97-26, Amended, 05/27/1997; 96-40, Amended, 11/12/1996)

Section 17-2-13-261 Declaration of policy.

The council declares that elected, appointed officials and city employees operate under a public trust; and any effort to realize personal gain through official conduct is a violation of that trust. Elected, appointed officials, and city employees shall not only be impartial and devoted to the best interests of the City, but also shall so act and conduct themselves, both inside and outside the City's service, as not to give occasion for distrust of their impartiality or of their devotion to the City's best interests.
(97-26, Amended, 05/27/1997; 96-40, Amended, 11/12/1996)

Section 17-2-13-262 Definitions.

A. As used in this division, the following terms shall have the meaning ascribed to them in this section:

1. Financial interest shall mean any interest that shall yield, directly or indirectly, a monetary or other material benefit, other than duly authorized salary or compensation for services to the city, to the official or employee or any other person retaining the services of the official or employee.

2. Personal interest shall mean any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.

3. Confidential information shall mean all information pertaining to city interests that is not available to the public in general, including, but not limited to, information pertaining to all claims and lawsuits pending against the city, ongoing labor negotiations, and personnel matters. (97-26, Amended, 05/27/1997)

Section 17-2-13-263 Disclosure of interest.

A. No elected official, appointed official or employee who has a direct or indirect financial or personal interest in any matter before the council or agency shall use his office or position to exert influence on such matter.

B. To the extent that he knows thereof, any elected official, appointed official or employee who participates in the discussion or expresses an opinion to the council or agency on any matter before it shall disclose the nature and extent of any direct or indirect financial or other personal interest he has in such matter to the council or agency.

C. Any elected official, appointed official or employee who has a direct financial or personal interest in any question before the body of which he is a member shall disclose the fact to it and shall not discuss the matter with other elected officials, appointed officials or employees nor vote thereon.

D. Within ten (10) days after the end of the filing period, each candidate for a city office shall file with the clerk a statement of economic interest as provided for herein. Such statement shall be kept current and up-to-date at all times the person holds an office.

E. Not less than ten (10) days before taking office, the city manager shall file with the clerk a statement of economic interest as provided for herein. Such statement shall be kept current and up-to-date at all times he holds the office of city manager. (97-26, Amended, 05/27/1997; 96-40, Amended, 11/12/1996)

Section 17-2-13-264 Statement of economic interest-Contents.

A. A statement of economic interest required under this article shall be on a form prescribed by the council and contain the following information concerning the person filing such statements:

1. The identity, by name, of all offices, directorships and fiduciary relationships held by him or his spouse;

2. The legal description of all real estate in the state in which he or his spouse has title, or an option to buy;

3. A list of businesses with which he is or has for the last five years been associated that do business with or are regulated by the city and a description of the nature of such business or regulation; and

4. If the individual filing is an attorney, a list of all matters of public record in which the city or any public official or agency is a party in which he or any member of a law firm with which he is associated represented a client, the name of each client and a description of the matter involved. (97-26, Amended, 05/27/1997)

Section 17-2-13-265 Disclosure of information.

No elected official, appointed official or employee shall disclose any information acquired by him in the course of his official duties or use such information to further his or

others' financial, personal, or political interests. This section shall not prohibit any such elected official, appointed official or employee from acquiring and utilizing any information which is available to the public in general so long as such information is obtained in the same manner as it would be obtained by an ordinary citizen. (97-26, Amended, 05/27/1997; 96-40, Amended, 11/12/1996)

Section 17-2-13-266 Securing special privileges.

No elected official, appointed official or employee shall use or attempt to use his position to secure privileges, financial gain or exemption for himself or others. (97-26, Amended, 05/27/1997; 96-40, Amended, 11/12/1996)

Section 17-2-13-267 Conduct after termination of employment.

No elected official, appointed official or employee, after the termination of service or employment with the city, shall appear before the council or any board or agency of the city in relation to any case, proceeding or application in which he personally participated during the period of his service or employment, or which was under his active consideration. (97-26, Amended, 05/27/1997; 96-40, Amended, 11/12/1996)

Section 17-2-13-268 Campaign contributions.

Campaign contributions shall be reported by all candidates for city office in strict conformity with the provisions of the state statutes. (97-26, Amended, 05/27/1997)

Section 17-2-13-269 Use of city property-Special advantages and treatment.

A. No elected official, appointed official or employee shall request or permit the unauthorized use of city-owned vehicles, equipment, materials or property for personal convenience or profit.

B. No elected official, appointed official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen. (97-26, Amended, 05/27/1997; 96-40, Amended, 11/12/1996)

Section 17-2-13-270 Incompatible employment.

No official or employee shall engage in or accept private employment or render service for private interest when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties. (97-26, Amended, 05/27/1997)

Section 17-2-13-271 Private business activities.

Employees shall not engage in private business activities during their working hours and shall not use city property or facilities for such activities. (97-26, Amended, 05/27/1997)

Section 17-2-13-272 Representing private interest before city.

A. No elected official, appointed official or employee shall:
1. Appear on behalf of any person other than himself, his immediate family, persons for whom he is a personal fiduciary, or his constituents in the course of his duties as a

representative of the electorate or in the performance of public or civic obligation before any city agency; or

2. Represent private interests in any action or proceeding against the interests of the city in any litigation to which the city is a party; except that such official or employee upon disclosing his interest and providing evidence of no official involvement to the clerk may represent himself, his immediate family or other persons for whom he is a personal fiduciary. (97-26, Amended, 05/27/1997; 96-40, Amended, 11/12/1996)

Section 17-2-13-273 Restriction on agency membership.

Unless otherwise expressly provided by law, no elected official, or appointed official shall serve as a member of an agency that regulates any business with which he is associated. (97-26, Amended, 05/27/1997; 96-40, Amended, 11/12/1996)

Section 17-2-13-274 Complaints and investigations.

A. Any person who has knowledge of a violation of this article committed by an elected official or an appointed official may file a signed and sworn written complaint with the city attorney's office. Once such complaint has been filed, notice of such filing shall be transmitted to the members of the city council, the mayor and the city manager, and the complaint shall be investigated by the city attorney's office. The information contained in the complaint and the information obtained as a result of the investigation shall be confidential information.

B. In all instances of complaints of violations of this article involving city employees, the complaint shall be referred to the city manager and appropriate department or division director for investigation and appropriate disciplinary action pursuant to Sections 17-171 to 17-174 of this chapter. (97-26, Amended, 05/27/1997; 96-40, Amended, 11/12/1996)

Section 17-2-13-275 Hearing panel-Notice and hearing.

A. If after preliminary investigation, the city attorney's office determines that there is sufficient evidence of a violation by an elected official or appointed official of this division to proceed with an inquiry, the mayor shall be notified of such determination and shall appoint a three member panel to hear the complaint. The panel shall consist of the mayor pro tem or senior council member, an attorney practicing law in the city and a business person conducting business in the city.

B. Members of the hearing panel shall immediately notify the accused individual in writing as to the fact of the inquiry and the charges against him and shall schedule one or more hearings on the matter.

C. The accused individual shall have the right to present evidence, cross-examine witnesses and be represented by counsel at any hearing. The hearing panel may call witnesses and compel the production of documents or other evidence. All testimony shall be under oath administered by the hearing panel. (97-26, Amended, 05/27/1997)

Section 17-2-13-276 Penalties.

A. If the hearing panel determines that the complaint is without merit, the panel may dismiss the complaint and take no further action. In such case, the panel shall retain its records and findings in confidence unless the person under inquiry requests in writing that the records and findings be made public.

B. If the panel determines, based on a preponderance of the evidence, that an elected

official or an appointed official has violated the provisions of this division, but that the violation was not willful, the panel may issue an oral or written reprimand or may recommend to the appointing authority that the appointed official be suspended from his official duties for a period not exceeding one month, or that an elected official be censured by the city council.

C. If the panel determines, by preponderance of the evidence, that an elected official or an appointed official has willfully violated the provisions of this division the panel shall recommend to the appointing authority that the appointed official be removed from his office or position with the city government; in the case of an elected official, the panel shall recommend to that the elected official be censured by the city council or the panel may initiate recall proceedings against the elected official as provided in Article 7 of the City Charter. (97-26, Amended, 05/27/1997; 96-40, Amended, 11/12/1996)

Section 17-2-13-277 Appeal.

An appointed official sanctioned by the hearing panel pursuant to the provisions of this division may appeal to the city council by filing a written request for appeal with the city clerk not later than thirty (30) days following the panel's action. The appeal shall be placed on the council meeting agenda in accordance with established agenda procedures. (97-26, Amended, 05/27/1997; 96-40, Amended, 11/12/1996)

Article 17-3

RETIREMENT AND PENSIONS

Divisions:

- 17-3-1 Police Pension and Retirement System**
- 17-3-2 Fire Fighters Pension and Retirement System**
- 17-3-3 Social Security**
- 17-3-4 Regular Employee Retirement System**

Division 17-3-1

Police Pension and Retirement System

Sections:

17-3-1-301 System created.

17-3-1-302 Statutes adopted-System to be operated in accordance therewith.

There is hereby created, for the purpose of providing pension retirement allowances and other benefits for police officers of the city, a police pension and retirement system. It is declared to be the official policy of the city to participate in the pension system as provided by state law. (97-26, Amended, 05/27/1997)

Section 17-3-1-301 System created.

There is hereby created, for the purpose of providing pension retirement allowances and other benefits for police officers of the city, a police pension and retirement system. It is declared to be the official policy of the city to participate in the pension system as provided by state law. (97-26, Amended, 05/27/1997)

Section 17-3-1-302 Statutes adopted-System to be operated in accordance therewith.

A. The police pension and retirement system as established by Sections 50-101 et seq. of Title 11 of the Oklahoma Statutes is hereby adopted by reference.

B. The local board of trustees of the police pension and retirement system, serving the police officers of the city, shall be constituted as provided by the state law and shall have the powers and duties prescribed thereby. (97-26, Amended, 05/27/1997)

Division 17-3-2

Fire Fighters Pension and Retirement System

Sections:

17-3-2-311 System created.

17-3-2-312 Statutes adopted-System to be operated in accordance therewith.

There is hereby created, for the purpose of providing pension retirement allowance and other benefits for fire fighters of the city, a fire fighters pension and retirement system. It is declared to be the official policy of the city to participate in said pension system as provided by state law. (97-26, Amended, 05/27/1997)

Section 17-3-2-311 System created.

There is hereby created, for the purpose of providing pension retirement allowance and other benefits for fire fighters of the city, a fire fighters pension and retirement system. It is declared to be the official policy of the city to participate in said pension system as provided by state law.

(97-26, Amended, 05/27/1997)

Section 17-3-2-312 Statutes adopted-System to be operated in accordance therewith.

A. The fire fighters pension and retirement system as established by Sections 49-100.1 et seq. of Title 11 of the Oklahoma Statutes is hereby adopted by reference.

B. The local board of trustees of the fire fighters pension and retirement system, servicing the fire fighters of the city, shall be constituted as provided by state law and shall have the powers and duties prescribed thereby. (97-26, Amended, 05/27/1997)

Division 17-3-3

Social Security

Sections:

17-3-3-321 City officers and employees under federal social security.

A. It is hereby declared to be the policy of the city to extend, at the earliest date, to the employees and officials thereof, not excluded by law or this article, and whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old-age and survivors insurance as authorized by the Federal Social Security Act, and amendments thereto. In pursuance of this policy, the city shall take such action as may be required by applicable state or federal laws or regulations.

B. The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the State Department of Human Services as agent or agency, to secure coverage of employees and officials as provided in Subsection A hereof.

C. Withholdings from salaries or wages of employees and officials for the purpose provided in subsection A hereof are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by the laws or regulations.

D. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, which shall be paid over to the state or federal agency designated by said laws or regulations.

E. The city shall keep such records and make such reports as may be required by applicable state or federal laws or regulations.

F. There is hereby excluded from this section any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the city.

G. There is hereby excluded from this section any authority to make an agreement with respect to any position or any employee or official, compensation for which is on a fee basis, or any position or any employee or official not authorized to be covered by applicable state or federal laws or regulations. (97-26, Amended, 05/27/1997)

Section 17-3-3-321 City officers and employees under federal social security.

A. It is hereby declared to be the policy of the city to extend, at the earliest date, to the employees and officials thereof, not excluded by law or this article, and whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old-age and survivors insurance as authorized by the Federal Social Security Act, and amendments thereto. In pursuance of this policy, the city shall take such action as may be required by applicable state or federal laws or regulations.

B. The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the State Department of Human Services as agent or agency, to secure coverage of employees and officials as provided in Subsection A hereof.

C. Withholdings from salaries or wages of employees and officials for the purpose provided in Subsection A hereof are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by the laws or regulations.

D. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, which shall be paid over to the state or federal agency designated by said laws or regulations.

E. The city shall keep such records and make such reports as may be required by applicable state or federal laws or regulations.

F. There is hereby excluded from this section any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the city.

G. There is hereby excluded from this section any authority to make an agreement with respect to any position or any employee or official, compensation for which is on a fee basis, or any position or any employee or official not authorized to be covered by applicable state or federal laws or regulations.

(97-26, Amended, 05/27/1997)

Division 17-3-4

Regular Employee Retirement System

Sections:

- 17-3-4-331 Short title.
- 17-3-4-332 Consolidation of existing system and preservation of rights.
- 17-3-4-333 Definitions.
- 17-3-4-334 Administration of retirement system-Appropriation.
- 17-3-4-335 Consolidation of liabilities and assets; Existing plan.
- 17-3-4-336 Contributions and funding.
- 17-3-4-337 Compulsory participation.
- 17-3-4-338 Rights limited.
- 17-3-4-339 Normal retirement benefits.
- 17-3-4-340 Deferred retirement benefits.
- 17-3-4-341 Early retirement benefits.
- 17-3-4-342 Disability retirement benefits.
- 17-3-4-343 Restrictions on benefits to conform to IRS requirements.
- 17-3-4-344 Mandatory distributions.
- 17-3-4-345 Termination of benefits.
- 17-3-4-346 Optional forms of retirement benefits.
- 17-3-4-347 Death benefits.
- 17-3-4-348 Designation of beneficiaries.
- 17-3-4-349 Rollover to another plan or IRA.
- 17-3-4-350 Reemployment of former employees.
- 17-3-4-351 Employment after retirement; Limitation.
- 17-3-4-352 Credit for actual military service.
- 17-3-4-353 Future service to include authorized leave of absence.
- 17-3-4-354 Administration of retirement system-Pension commissioners.
- 17-3-4-355 Future changes in the operation of the retirement system.
- 17-3-4-356 Protection against fraud and deceit-Violations and punishments.

This revised retirement system and plan shall be known and cited as the "Employee Retirement System of the City of Lawton, Oklahoma." (97-26, Amended, 05/27/1997)

Section 17-3-4-331 Short title.

This revised retirement system and plan shall be known and cited as the "Employee Retirement System of the City of Lawton, Oklahoma."
(97-26, Amended, 05/27/1997)

Section 17-3-4-332 Consolidation of existing system and preservation of rights.

A. The rights of members under the terms and provisions of the superseded retirement system of the city, which was established effective as of November 1, 1970, by Ordinance No. 299 and thereafter amended by Ordinance No. 367, shall not be impaired nor shall their benefits be reduced by virtue of any part of this revised "Employee Retirement System of the City of Lawton, Oklahoma," as hereinafter set forth and at retirement or termination shall

have their benefits calculated in accordance with the provisions of the revised retirement system.

B. The revised retirement system as hereinafter set forth is a continuation and a complete amendment and restatement, effective as of July 1, 2005, of the employee retirement system of the city as established originally effective as of November 1, 1970, by Ordinance No. 299. (97-26, Amended, 05/27/1997)
(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-333 Definitions.

A. The following words and phrases as used in this article, unless a different meaning is plainly required by the context, shall have the meanings hereafter set forth; and the same and similar terms when used in connection with any civil service system or any other ordinance of the city shall not necessarily apply to the members of the revised retirement system except when specifically adopted:

1. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received under different forms of payment. The determination of such equality will be based on the use of the 1984 Pension Unisex Mortality Table and 7% interest rate.

This paragraph shall apply to distributions with annuity starting dates on or after December 31, 2002. Notwithstanding any other retirement system provisions to the contrary, any reference in the retirement system to the mortality table prescribed in Rev. Rul. 95-6 shall be construed as a reference to the mortality table prescribed in Rev. Rul. 2001-62 for all purposes under the retirement system. For any distribution with an annuity starting date on or after the effective date of this paragraph and before the adoption date of this paragraph, if application of this paragraph as of the annuity starting date would have caused a reduction in the amount of any distribution, such reduction is not reflected in any payment made before the adoption date of this paragraph. However, the amount of any such reduction that is required under code Section 415(b)(2)(B) must be reflected actuarially over any remaining payments to the participant;

2. "Average final monthly compensation" means the member's average monthly rate of earnings from the city for the three successive calendar years out of the six calendar years immediately preceding the date of his retirement or termination which give the highest average monthly rate of earnings for the member. The member's average monthly rate of earnings will be determined by dividing the total earnings received by him during such three-calendar-year period by the number of months for which he received earnings from the city in such three-calendar-year period. The number of months for which he received earnings from the city will be computed, to the extent he was paid on other than a monthly basis, by determining the number of pay periods ending within such three calendar years for which he received earnings from the city and converting such pay periods into months, by dividing the number thereof, if weekly by 4-1/3, or if biweekly by 2-1/6, and if semi-monthly by 2. If any such member does not receive any earnings from the city during a calendar year or calendar years which would otherwise be used to determine his average final monthly compensation, such calendar year or calendar years during which he did not receive earnings from the city shall be ignored or excluded in determining the six calendar years to be used in determining the member's average final monthly compensation;

3. "Beneficiary" means any person in receipt of, or entitled to, an annuity, retirement allowance or other benefits hereinafter set forth under the terms and provisions of this retirement system;

4. "City" means the City of Lawton, Oklahoma, a municipal corporation;

5. "City's contribution" means the contribution to be made each year by the city as provided in Section 17-336 of this chapter.

6. "Code" means the Internal Revenue Code of 1986, as amended from time to time;

7. "Creditable service of any employee" means his last period of continuous employment with the city prior to his retirement or termination of service subject to the following provisions. Any leave of absence which is authorized by the city shall not be considered as interrupting continuity of employment, provided the employee returns within the period of authorized absence. Service credit shall be granted for any period of authorized absence due to illness or military service and shall be limited to thirty (30) days for any period of authorized absence due to other reasons provided that all required contributions of the member are paid for such periods that service credit is granted. The pension commissioners may adopt rules to amplify or modify the foregoing provisions relating to leaves of absence, which rules shall be uniform and consistent and applied to avoid discrimination. Effective July 1, 1991, such creditable service shall be computed to the nearest whole month of completed service and any fractional parts of a month shall count as a whole month. Notwithstanding any provision of this retirement system to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the code for plan years commencing after December 12, 1994;

8. "Death in line of duty" means death arising out of and in the actual performance of duty required by a member's employment during his regularly scheduled working hours or irregular working hours as required by the city. The pension commissioners may require such proof as deemed necessary as to the time, date and cause of death, including evidence from any available witness;

9. "Dependent child" means a deceased member's surviving natural son or daughter, or legally adopted son or daughter. Except in the case of a full-time student or a disabled child whose disability began before he reached age twenty-two (22), child's benefits end when the child reaches age eighteen (18). An unmarried child attending school full time can continue to receive benefits until the end of the school term during which he reaches age twenty-two (22). "School" includes all schools, colleges and universities that are public or accredited; and the child may be taking either vocational or academic courses. Benefits are paid during normal school vacation periods, as well as during the school year. Any provisions herein to the contrary notwithstanding, any such surviving son or daughter shall not be considered as a dependent child for the purposes of the retirement system after the date of his or her marriage;

10. "Early retirement date" means the first day after the day:
a. The member:
i. has both completed ten (10) years of creditable service and attained the age of fifty-two (52) years; or
ii. completed twenty-five (25) years of creditable service, regardless of age, whichever of (i) and (ii) is earlier; and
b. The date that such member elects to receive retirement benefits in accordance with the provisions hereof;

11. "Earnings" or "compensation" means the total remuneration paid to an employee by the city as base salary or wage, but excluding overtime pay and any other form of extra compensation, for personal services rendered during the period considered as creditable service. Beginning January 1, 1995, "earnings" mean the total remuneration paid to an employee by the city as base salary or wage and longevity pay but excluding overtime pay and any other form of extra compensation for personal services rendered during the period considered as creditable.

For purposes of determining an employee's earnings or compensation, any election by such employee to reduce his regular cash remuneration under code Sections 125, 401(k), 414(h) or 457 shall be disregarded.

Notwithstanding any herein to the contrary, for plan years commencing after December

31, 1998, the annual earnings or compensation of each member taken into account under the retirement system for any plan year shall not exceed \$200,000, as adjusted by the secretary at the same time and in the same manner as under Section 415(d) of the code. In addition to other applicable limitations set forth in the retirement system, and notwithstanding any other provision of the retirement system to the contrary, for plan years beginning on or after January 1, 1994, the annual earnings or compensation of each employee taken into account under the retirement system shall not exceed the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93") annual compensation limit. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

For plan years beginning on or after January 1, 1994, any reference in this retirement system to the limitation under Section 401(a)(17) of the code shall mean the OBRA '93 annual compensation limit set forth in this provision.

If earnings or compensation for any prior determination period is taken into account in determining an employee's benefits accruing in the current plan year, the earnings or compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after January 1, 1994, the OBRA '93 annual compensation limit is \$150,000.

For plan years beginning before December 31, 1996, in determining the earnings or compensation of a member for purposes of this limitation, the rules of Section 414(q)(6) of the code shall apply, except in applying such rules, the term "family" shall include only the spouse of the member and any lineal descendants of the member who have not attained age 19 before the close of the plan year. If, as a result of the application of such rules the adjusted \$150,000 limitation is exceeded, then (except for purposes of determining the portion of earnings or compensation up to the integration level if this retirement system provides for permitted disparity), the limitation shall be prorated among the affected individuals in proportion to each such individual's earnings or compensation as determined under this section prior to the application of this limitation. Provided, no such aggregation shall be required for plan years beginning after December 31, 1996.

For limitation years beginning on and after January 1, 2001, for purposes of applying the limitations described in this retirement system, earnings or compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the employee by reason of Section 132(f)(4) of the code.

The annual earnings or compensation of each member taken into account in determining benefit accruals in any pay plan year beginning after December 31, 2001, shall not exceed \$200,000. Annual earnings or compensation means earnings or compensation during the plan year or such other consecutive 12-month period over which earnings or compensation is otherwise determined under the retirement system (the determination period). For purposes of determining benefit accruals in a plan year beginning after December 31, 2001, earnings or compensation for any prior determination period shall be \$150,000 for any determination period beginning in 1996 or earlier; \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001.

The \$200,000 limit on annual earnings or compensation in the preceding paragraph shall

be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the code. The cost-of-living adjustment in effect for a calendar year applies to annual earnings or compensation for the determination period that begins with or within such calendar year;

12. "Effective date of the revised system" means the date on which the operation of the revised retirement system is to commence, which is hereby fixed as July 1, 2005, except as otherwise provided;

13. "Employee" means any person who is receiving remuneration for full-time personal service regularly rendered for the city or who would be receiving such remuneration except for an authorized leave of absence, exclusive, however of:

a. Any persons employed on a part-time basis;

b. Any persons compensated on a contractual or fee basis; the city manager, municipal judge, city attorney or city clerk will be considered an employee under this article unless covered under a system as provided in subsection d hereof. Furthermore, any person who has been classified by the city as an independent contractor and has had his compensation reported to the Internal Revenue Service on Form 1099 but who has been reclassified as an "employee" (other than by the city) shall not be considered as an eligible employee who can participate under this retirement system; provided, if the city does reclassify such worker as an "employee," for purposes of this retirement system, such reclassification shall only be prospective from the date that the employee is notified by the city of such reclassification. Effective for plan years beginning after December 31, 1996, a leased employee shall not be considered an employee of the recipient if: (i) such employee is covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least 10% of compensation, as defined in Section 415(c)(3) of the code, but including amounts contributed by the employer pursuant to a salary reduction agreement which are excludable from the employee's gross income under Section 125, Section 402(a)(8), Section 402(h) or Section 403(b) of the code, (2) immediate participation, and (3) full and immediate vesting; and (ii) leased employees do not constitute more than 20% of the recipient's non-highly compensated workforce.

c. Any persons employed as full-time police officers or fire fighters eligible and participating in the state of Oklahoma Police or state of Oklahoma Fire Pension systems as an employee not including those persons receiving monthly retiree benefit payments; and

d. The city manager, municipal judge, city attorney and city clerk if his or her participation in the city employee retirement system would be concurrent with participation in any other retirement system or plan to which the city would be required to furnish contributions;

14. "Fund; trust fund" means all sums of money paid into the retirement system by the city and the members and all gifts and contributions to the fund accepted from other sources, together with earning and appreciation of the same, less disbursements made from such money, in accordance with the retirement system and less any losses or depreciation of the asset value;

15. "Leased employee" shall mean with respect to taxable years commencing after December 31, 1996, any person, other than an employee of the city, determined by applying the common law agency rules, and determined without regard to the special rule for leased employees, who pursuant to an agreement between the city and any other person or entity ("leasing organization") has performed services for the city and/or any affiliated entities as defined in Section 414(n)(6) of the code ("recipient") on a substantially full-time basis for a period of at least one (1) year; provided that, for plan years beginning after December 31, 1996, such services are performed under the primary direction or control of the recipient.

16. "Member" means any employee who is covered or who becomes covered under the retirement system in accordance with the provisions of Section 17-337 of this chapter.

17. "Member's accumulated contributions" means the contributions made by a

member together with interest thereon compounded per annum at an adjusted rate of two percent (2%) above the United States Treasury Bill market rate as of close of business of the New York Stock Exchange on December 31 and June 30 or the next business day if the market is closed on the date designated above. In no event shall the total interest calculation be more than a total of six percent (6%) interest per annum. Rate adjustments shall apply to funds contributed during the six months following the semi-annual adjustment date;

18. "Normal retirement date and normal retirement age" means the first day of the month next following (a), (b) or (c) whichever is earlier, where:

a. Is the date as of which the member has both completed ten (10) years of creditable service and attained the age of sixty-two (62) years;

b. Is the date as of which the member completes thirty years (30) of creditable service; or

c. Is the date as of which the member attains age sixty-five (65);

19. "Pension" means monthly payments to a retiree derived as provided in this retirement system;

20. "Pension commissioners" means the persons appointed from time to time by the city council pursuant to the provisions of Section 17-354 hereof to administer the retirement system;

21. "Plan year" means the fiscal year of the retirement system, being the twelve (12) consecutive month period beginning July 1 and ending on June 30;

22. "Qualified actuary" means a fellow of the Society of Actuaries or a member of the American Academy of Actuaries or an organization of which one or more members is a fellow of the Society of Actuaries or a member of the American Academy of Actuaries or both;

23. "Retirement" means withdrawal from active employment of the city with retirement income granted under the provisions of the retirement system;

24. "Retirement system" means the system of retirement benefits provided under the employee retirement system of the city as amended and in effect from time to time;

25. "Revised retirement system" means the employee retirement system of the city as amended and restated in its entirety effective as of July 1, 2005, as set forth in this Division 17-3-4, and as thereafter amended from time to time;

26. "Surviving spouse" means the lawful husband or wife or a deceased member who was such lawful husband or wife at the time of retirement or termination of employment of such member and who was living together with the member as man and wife at the time of the member's death, or who was not living voluntarily apart from the member at such time. In no event, under any interpretation hereunder, shall any man or woman be considered a surviving spouse for the purposes of this retirement system if such man or woman was not legally married to the member;

27. "Totally and permanently disabled in line of duty" means total and permanent disability as defined in subsection B of Section 17-342 of this chapter arising out of and in the actual performance of duty as required by a member's employment. The pension commissioners may require such proof as deemed necessary as to the time, date and cause of any such injury or illness, including evidence from any available witness;

28. "Trust; trust agreement" means the city employees retirement trust established pursuant to that trust agreement made as of November 1, 1970, or such other trust agreement as may subsequently be entered into to supersede the aforementioned agreement for the purpose of holding and investing the contributions paid by members and the city under the retirement system and for paying the benefits to which members or their beneficiaries may become entitled; and

29. "Trustee" means any group of individuals or bank having trust powers which may be designated from time to time as trustee of the retirement system's fund by the city council. (Ord. 2004-26, Amended, 06/08/2004; 2000-03, Amended, 01/25/2000; 98-08, Amended, 03/24/1998; 97-26, Amended, 05/27/1997) (Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-334 Administration of retirement system-Appropriation.

The pension commissioners shall make such rules and regulations as are necessary for the effective and efficient administration of this retirement system. The funds to pay the expenses for such administration are hereby appropriated from interest and appreciation earned on investments of the trust fund. The pension commissioners shall cause an actuarial study of the retirement system to be made by a qualified actuary at least once every two years and report the results of such study to the city council following completion of such study. The date of the first such study shall be established by the pension commissioners but not be later than January 1, 1977. (97-26, Amended, 05/27/1997)

Section 17-3-4-335 Consolidation of liabilities and assets; Existing plan.

A. Consolidation of liabilities and assets. Effective November 1, 1975, the superseded retirement system and the revised retirement system shall be consolidated and the revised retirement system shall assume:

1. All liabilities related to the payment of benefits to members and their beneficiaries;

2. All obligations in regard to funding and administering benefits accrued for the benefit of members, beneficiaries and survivors; and

3. All assets held as of the effective date.

B. (NOTE: No text on this line)

1. Benefits unassignable and not subject to process. Except as provided in Section 17-3-4-335(B)(2), the right of any member or any beneficiary to any benefits under the retirement system or any other right accrued or accruing to any persons under the provisions of this retirement system shall not be subject to garnishment, attachment, execution, claims of creditors, assignment, pledge or hypothecation unless expressly authorized hereunder.

2. The provisions of Section 17-3-4-335(B)(1) shall not apply to a qualified domestic order as provided in this subsection.

(a) The term "qualified domestic order" means an order issued by a District Court of this state, pursuant to the Domestic Relations Laws of the State of Oklahoma, which relate to the provision of marital property rights to a spouse or former spouse of a member of any retirement fund created pursuant to subsection (a) of this section, or to the provision of support for a minor child or children, and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member and amounts payable to a retirement system member of any retirement plan created pursuant to subsection (2) of this section;

(b) For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues;

(c) A qualified domestic order is valid and binding on the municipality and the related member only if it meets the requirements of this subsection;

- (d) A qualified domestic order shall clearly specify:
 - (i) the name and last-known mailing address, if any, of the member and the name and mailing address of the alternate payee covered by the order;
 - (ii) the amount or percentage of the member's benefits to be paid by the retirement system to the alternate payee;
 - (iii) the number of payments or period to which such order applies;
 - (iv) the characterization of the benefit as to marital property rights or child support, and;
 - (v) each plan to which such order applies.
- (e) A qualified domestic order meets the requirements of this subsection only if such order;
 - (i) does not require the retirement system to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the retirement system;
 - (ii) does not require the retirement system to provide increased benefits; and
 - (iii) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the retirement plan as a valid order prior to the effective date of this section.
- (f) A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member;
- (g) The obligation of the retirement system to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member;
- (h) This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A., Section 1001 et seq., as amended from time to time, or rules promulgated thereunder and court cases interpreting said act.
- (i) The municipality may adopt such provisions as are necessary to implement the provisions of this subsection.
- (j) An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order shall fully comply with all provisions of the requirements imposed by the municipality pursuant to this section in order to continue receiving benefits.

C. Errors, corrections and adjustments. Should any change or error in the records of the retirement system be discovered or any error in any calculation be made resulting in any member or beneficiary receiving from the retirement system more or less than he was entitled to receive, the pension commissioners shall have the power to correct such error and as far as possible to adjust the payments thereafter to be made in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled be paid.

D. Payments in case of legal or other disability. Whenever or as often as a person entitled to payments hereunder shall be under legal disability, the pension commissioners in the exercise of their discretion may direct that all or any portion of the benefits of such members be payable in one or more of the following ways:

1. Directly to such person;
2. To his legal guardian or conservator; or
3. To his spouse or to any person to be expended for his benefit.

E. The decision of the pension commissioners shall in each case be final and binding on all persons, including the affected member of the retirement system. (97-26, Amended, 05/27/1997)

(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-336 Contributions and funding.

A. The cost of the retirement system will be borne by the city and by employees of the city.

B. The city shall pay into the fund such amounts as are required, together with the members' contributions, to provide the benefits under this retirement system as shall be determined by an actuarial investigation as provided in Section 17-334 hereof, subject to a maximum contribution by the city of eight percent (8.0%) of payroll retroactive to July 2, 2007.

C. Members shall pay into the trust fund through payroll deductions each pay period at the rate of five and thirty hundredths percent (5.30%) of their earnings for such pay period beginning on July 14, 2008.

D. Contributions for social security by each member and the city in the amount required for social security coverage as now or hereafter provided by the Federal Insurance Contribution Act (F.I.C.A.) shall be in addition to contributions specified in subsections B and C.

E. The city may accept gifts, bequests, devises or appropriations to or for the trust fund from any source but shall have the right to reject the same if they are so conditional as to conflict with the charter or the provisions hereof or to make the administration of the same unreasonably difficult.

F. All monies paid into and held for the purposes of the retirement system shall be invested according to the terms of the trust agreement.

G. Effective January 1, 1995, the city, as employer, adopts the pick up contribution option as a qualified retirement fund under the Internal Revenue Service Code. The contribution of such qualified employee shall be picked up and assumed by the city in lieu of contribution by an employee. Such contribution shall be paid to the fund as any other contribution. Each employee's compensation will be reduced by the amount paid to the fund by the city in lieu of the required contribution by the employee. Under this provision, the city's contribution shall be excluded from the employee's gross income for tax purposes, and employees shall have no option of receiving the city's contribution directly as compensation. The contribution which is made by the employer under the pickup provision shall be designated as employee's contribution for purposes of vesting and determination of employee's contribution accumulation.

H. The mandatory member contributions (as provided in Section 17-3-4-336(c) of the retirement system) are designated "picked-up" by the city so as to not be included in member's gross income for federal income tax purposes as provided in Section 414(h)(2) of the Internal Revenue Code of 1986. All such mandatory member contributions, although designated as employee contributions, are to be paid by the city in lieu of contributions by the member. No member shall have the option of choosing to receive the amounts of mandatory member contributions directly in lieu of having such amounts paid by the city to the trustees of the retirement system.

(Ord. 2002-22, Amended, 07/09/2002; 97-26, Amended, 05/27/1997)

(Ord. 2008-40, Amended, 05/27/2008; Ord. 2008-19, Amended, 04/11/2008; Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-337 Compulsory participation.

A. Participation under the retirement system in accordance with the provisions hereof shall be compulsory as to all employees of the city. Each employee shall become a member of the revised retirement system as of the date on which he completes thirty (30) days of creditable service or on the effective date of revised retirement system, whichever is later except as provided in subsection B of this section; however, the city manager, municipal judge, city

attorney, and the city clerk may join the system after initial employment but shall not be eligible to participate concurrently in the city employees retirement system and other retirement system or plan to which the city would be required to furnish contributions.

B. Any employee who has less than one year but more than thirty (30) days of creditable service as of June 30, 1997, shall make an election by July 30, 1997, to become a member of the revised retirement system as of June 30, 1997; otherwise such employee shall not become a member of the revised retirement system until such employee completes one hundred eighty (180) days of creditable service with the city. (2000-03, Amended, 01/25/2000; 97-26, Amended, 05/27/1997)

Section 17-3-4-338 Rights limited.

A. Participation in the retirement system shall not give any member the right to be retained in the employment of the city nor, upon dismissal, to have any right or interest in the fund other than herein provided.

B. A member who has caused a shortage in a public account, when such shortage is certified by a certified public accountant, may not receive any benefits under the retirement system so long as such shortage exists. (97-26, Amended, 05/27/1997)

Section 17-3-4-339 Normal retirement benefits.

A. Upon attaining his normal retirement date, the member, upon application to the pension commissioners, shall receive a monthly benefit, which shall be paid on the last day of each month thereafter during his lifetime.

B. The amount of the monthly benefit payable to a member who retires on or after November 1, 1975, and prior to February 1, 1985, shall be determined as the sum of paragraphs 1, 2 and 3 below where:

1. Is one and six tenths percent (1.6%) of his average final monthly compensation multiplied by the number of his years of creditable service which he accrues subsequent to October 31, 1975;

2. Is twenty-five one-hundredths percent (0.25%) of his average final monthly compensation multiplied by the portion of the number of his years of creditable service which he accrues subsequent to October 31, 1975, which is not in excess of the number of his years of creditable service, if any, which he had accrued prior to November 1, 1975; and

3. Is one percent (1%) of his average final monthly compensation multiplied by the number of his years of creditable service, if any, which he had accrued prior to November 1, 1975.

C. The amount of the monthly benefit payable to a member who retires on or after February 1, 1985, and prior to July 1, 1990, shall be equal to one and six-tenths percent (1.6%) of his average final monthly compensation multiplied by his total number of years of creditable service.

D. Recognizing and providing for increases in retirement benefits, and monthly benefits as above computed including the ad hoc adjustments made by minute action in the Lawton city council regular meeting of December 14, 1982, shall be increased effective July 1, 1990 by the following percentages for the designated year of retirement:

Retirement Year	Increase
Prior to 1985	25%
Calendar 1985	20%
Calendar 1986	16%
Calendar 1987	14%
Calendar 1988	9%
Calendar 1989	5%
Calendar 1990	0%

This subparagraph shall be construed as a one-time, ad hoc adjustment and shall not create any expectation or obligation for similar adjustments in subsequent years.

E. The amount of the monthly benefit payable to a member who retires on or after July 1, 1990, and prior to July 1, 1998, shall be equal to two percent (2%) of the member's average final monthly compensation multiplied by the member's total number of years of creditable service.

F. In January, 1999, and every two years thereafter, the retirement system shall be examined for the possibility of increases for retirees. Any increase shall be based on a percentage which is one-half the percentage change in the cost of living index identified as the Consumer Price Index for all Urban Consumers (CPI-U) of Dallas. No increase shall go into effect until it has been approved by a majority of the retirement commissioners meeting in regular or special session.

G. The amount of the monthly benefit payable to a member who retires on or after July 1, 1998, shall be equal to two and three-tenths percent (2.3%) of the member's average monthly compensation multiplied by the member's total number of years of creditable service. (98-20, Amended, 05/26/1998, Provisions of this ordinance effective July 1, 1998.; 98-08, Amended, 03/24/1998; 97-26, Amended, 05/27/1997) (Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-340 Deferred retirement benefits.

A. The city may request a member to remain in employment of the city after his normal retirement date. If the member agrees, his retirement may be deferred until one year after his normal retirement date, and such deferral may be extended by mutual agreement for one additional year at a time. Such a member will be subject, at the city's option, to an annual physical examination at the city's expense during the period of deferment.

B. Upon retirement after his normal retirement date, the member, upon application to the pension commissioners, shall receive an immediate monthly benefit, which shall commence on the next day after his last day of city service and shall be payable on the last day of each month thereafter during his lifetime. The amount of each monthly payment shall be computed in the same manner as for a normal retirement benefit, in accordance with Section 17-339 hereof but based on his average final monthly compensation, and creditable service as of the member's actual retirement date. (97-26, Amended, 05/27/1997)

Section 17-3-4-341 Early retirement benefits.

Upon retirement on his early retirement date, the member, upon application to the pension commissioners, shall receive a monthly benefit, which shall commence on the next day after his last day of city service and be payable on the last day of each month thereafter during his lifetime. The amount of each monthly payment shall be computed in the same manner as for

a normal retirement benefit, in accordance with Section 17-339 hereof, but based on his average final monthly compensation; and creditable service as of the member's early retirement date and the benefit so computed shall be reduced by five-twelfths percent (5/12%) for each complete month by which the member's early retirement date precedes his normal retirement date. (97-26, Amended, 05/27/1997)

Section 17-3-4-342 Disability retirement benefits.

A. A member who prior to eligibility for normal retirement becomes totally and permanently disabled, as defined in subsection B below, after completing five years of creditable service, or a member who becomes totally and permanently disabled in line of duty regardless of service, shall, in either case, be entitled to a monthly disability benefit. The disability retirement date for such a member shall be the day following the day on which the pension commissioners approve payment of disability retirement benefits. If for any reason, the commissioners are unable to determine whether or not a member is totally and permanently disabled at the commissioners' first meeting following the date of application for benefits, then the commissioners are authorized upon finding such disability, to declare that the disability retirement date may be retroactively applied to the day after the day the commission first met following the member's application.

B. A member shall be considered totally and permanently disabled if, in the opinion of the pension commissioners, he is prevented, by reason of a medically determinable physical or mental impairment, from rendering useful and efficient service as an employee. The decision of the pension commissioners of these questions shall be final and binding.

C. The pension commissioners, before approving payment of any disability retirement benefit, shall require proof that the member is totally and permanently disabled as provided herein, which proof may include the certification of the member's total and permanent disability by two licensed physicians of the state, selected by the pension commissioners, and such other evidence of disability as the pension commissioners may require.

D. A member, upon retirement on his disability retirement date, shall receive a monthly benefit, which shall commence in accordance with Section A. above and shall be payable on the last day of each month thereafter during his lifetime and continued disability. The amount of each monthly payment shall be computed in the same manner as for a normal retirement benefit, in accordance with Section 17-339 hereof, but based on the member's average monthly compensation and creditable service as of his disability retirement date, subject to the following conditions:

1. If the member became totally and permanently disabled in the line of duty, his monthly benefit as determined above shall not be less than forty-two percent (42%) of his average final monthly compensation as of his disability retirement date; or

2. If the member's total and permanent disability occurred other than in the line of duty, his monthly benefit as determined above shall not be less than twenty-five percent (25%) of his average final monthly compensation as of his disability retirement date, except that the minimum monthly benefit allowed in this subparagraph shall not apply to a member who has attained his normal retirement age.

E. The pension commissioners may require either periodic reexamination at the expense of the trust fund, or evidence of continuing disability and:

1. If the pension commissioners find that a member who is receiving disability benefits is, at any time prior to his normal retirement date, no longer disabled, the pension commissioners shall direct that the benefits be discontinued. The decision of the pension commissioners on this question shall be final and binding;

2. If the member described in paragraph 1 of this subsection (who recovers from such disability prior to his normal retirement date) does not reenter the employ of the city and such member had not completed a sufficient number of years of creditable service as of his disability retirement date to be entitled to a fully vested interest in his accrued benefits (if his service had been terminated for any reason other than death or total and permanent disability) as described in Section 17-3-4-345, he shall be entitled to the excess, if any, of his member's accumulated contributions over the total disability benefits received up to his date of recovery;

3. If the member described in paragraph 1 of this subsection (who recovers from such disability prior to his normal retirement date) does not reenter the employ of the city but such member had completed a sufficient number of years of creditable service as of his disability retirement date to be entitled to a fully vested interest in his accrued benefits (if his service had been terminated for any reason other than death or total and permanent disability) as described in Section 17-3-4-345, he may elect to receive:

a. The excess, if any, of his member's accumulated contributions over total disability benefits received up to his date of recovery; or

b. A deferred monthly benefit commencing on the last day of the month of his normal retirement date and payable on the last day of each month thereafter during his lifetime.

The amount of the deferred monthly benefit in subsection b above shall be computed in the same manner as for a normal retirement benefit, in accordance with Section 17-3-4-339 hereof but based on the member's average final monthly compensation and creditable service as of his disability retirement date; and

4. If the member recovers from disability and reenters employment of the city within six months after his recovery, his service will be deemed to have been continuous; and the period beginning with the first month for which he received a disability benefit payment and ending with the date he reentered the employment of the city will be considered as creditable service for the purpose of computing benefits. The term "member's accumulated contributions" for such members where used herein after recovery shall mean the excess of the member's accumulated contributions as of his disability retirement date over the total disability benefits received under this section.

F. A member shall not be entitled to receive any disability retirement benefit if his disability is a result of any of the following:

1. Injury or disease sustained by the member while willfully participating in riots, civil insurrections or other acts of violence or while committing a felony;

2. Injury or disease sustained by the member after his employment has terminated;

or
3. Intentional, self-inflicted injury. (97-26, Amended, 05/27/1997)
(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-343 Restrictions on benefits to conform to IRS requirements.

A. General. The provisions of this subsection A shall be effective for plan years beginning after December 31, 1999. This section, except for subsection (2) below, applies regardless of whether any member is or has ever been a participant in another qualified plan maintained by the city. If any member is or has ever been a participant in another qualified plan maintained by the city, or a welfare benefit fund, as defined in Section 419(e) of the code, maintained by the city, or an individual medical account, as defined in Section 415(1) (2) of the code, which provides an annual addition, is also applicable to that member's benefits.

1. The annual benefit otherwise payable to a member at any time will not exceed the maximum permissible amount. If the benefit of the member would otherwise accrue in a

limitation year would produce an annual benefit in excess of the maximum permissible amount, the rate of accrual under this retirement system will be reduced so that the annual benefit will equal the maximum permissible amount.

2. The limitation in subsection (1) above is deemed satisfied if the annual benefit payable to a member is not more than \$1,000 multiplied by the member's number of years of service or parts thereof (not to exceed 10) with the city, and the city has not at any time maintained a defined contribution plan, a welfare benefit plan as defined in Section 419(e) of the code, or an individual medical account as defined in Section 415(1)(2) of the code in which such member participated.

3. If a member is, or has ever been, covered under more than one defined benefit plan maintained by the city, the sum of the member's annual benefits from all such plans may not exceed the maximum permissible amount.

4. If the city maintains, or at any time maintained, one or more qualified defined contribution plans covering any member in this retirement system, a welfare benefit fund, as defined in Section 419(e) of the code, or an individual medical account as defined in Section 415(1)(2) of the code, the sum of the member's defined contribution fraction and defined benefit fraction will not exceed 1.0 in any limitation year.

5. In the case of an individual who was a member in one or more defined benefit plans of the city as of the first day of the first limitation year beginning after December 31, 1986, the application of the limitations of this section shall not cause the maximum permissible amount for such individual under all such defined benefit plans to be less than the individual's current accrued benefit. The preceding sentence applies only if such defined benefit plans met the requirements of Section 415 of the code, for all limitation years beginning before January 1, 1987.

6. Code Section 415(e) shall not be effective or applicable to the retirement system for limitation years beginning after December 31, 1999.

B. Definitions. The provisions of this subsection B shall be effective for plan years beginning after December 31, 1999. For purposes of calculating the limitations which are otherwise applicable to a member pursuant to Section 415 of the code of this retirement system, the following definitions shall apply.

1. Actual compensation: The words "actual compensation" means a member's earned income, wages, salaries, and fees for professional services, and other amounts received (regardless if in cash or other property) for personal services actually rendered in the course of employment with the city maintaining the retirement system (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses), and excluding the following:

(a) City contributions to a plan of deferred compensation which are not included in the employee's gross income for the taxable year in which contributed or city contributions under a simplified employee pension plan to the extent such contributions are deductible by the employee, or any distributions from a plan of deferred compensation;

(b) Amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by the employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

(c) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and

(d) Other amounts which received special tax benefits, or contributions made by the city (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Section 403(b) of the code (whether or not the amounts are actually excludable from

the gross income of the member.

Provided, for limitation years beginning after December 31, 1991, for purposes of applying the limitations of this section, actual compensation for a limitation year is the compensation actually paid or includable in gross income during such limitation year. Actual compensation for a member who is permanently and totally disabled (as defined in Section 22(e) of the code) is the compensation such member would have received for the limitation year if the member had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled; and, such imputed compensation for the disabled member may be taken into account only if the member is not an officer, a director, or highly compensated employee, and contributions made on behalf of such member are nonforfeitable when made.

For limitation years beginning on and after January 1, 2001, for purposes of applying the limitations described in this section, limitation compensation paid or made available during such limitation years shall include elective amounts that are not includable in the gross income of the employee by reason of Section 132(f)(4) of the code.

2. Annual benefit. The words "annual benefit" mean a retirement benefit under the retirement system which is payable annually in the form of a straight life annuity under all qualified defined benefit plans maintained by the city, excluding any benefits attributable to member contributions or rollover contributions, if any, to the plans or to any assets transferred from a qualified plan that was not maintained by the city. Except as provided below, a benefit payable in a form other than a straight life annuity must be adjusted to the actuarial equivalent of a straight life annuity before applying the limitations of this section. The interest rate assumption used to determine such actuarial equivalent will be the greater of the interest rate specified in Section 17-3-4-333(A)(1) of this retirement system or 5%. The annual benefit does not include any benefits attributable to "employee contributions" or rollover contributions, or the assets transferred from a qualified plan that was not maintained by the city. No actuarial adjustment to the benefit is required for (i) the value of a qualified joint and survivor annuity, (ii) the value of benefits that are not directly related to retirement benefits (such as the qualified disability benefit, pre-retirement death benefits, and post-retirement medical benefits), and (iii) the value of post-retirement cost-of-living increases made in accordance with Section 415(d) of the code and Section 1.415-3(c)(2)(iii) of the Federal Income Tax Regulations.

3. Current accrued benefit: The words "current accrued benefit" mean a member's accrued benefit under the retirement system, determined as if the member had separated from service as of the close of the last limitation year beginning before January 1, 1987, when expressed as an annual benefit within the meaning of Section 415(b)(2) of the code. In determining the amount of a member's current accrued benefit, the following shall be disregarded: (a) any change in the terms and conditions of the retirement system after May 5, 1986;

(b) any cost of living adjustments occurring after May 5, 1986.

4. Defined benefit dollar limitation: The words "defined benefit dollar limitation" mean the defined benefit dollar limitation is \$90,000. Effective on January 1, 1988, and each January thereafter, the \$90,000 limitation above will be automatically adjusted by multiplying such limit by the cost of living adjustment factor prescribed by the secretary of the treasury under Section 415(d) of the code in such manner as the secretary shall prescribe. The new limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

5. Employee contributions: The words "employee contributions" mean contributions to the retirement system, if any, by a member during the limitation year, without regard to any rollover contributions (as defined in Sections 402(a)(5), 403(a)(4), 403(b)(8), and 408(d)(3) of the code), and without regard to any employee contributions to a simplified

employee pension which are excludable from gross income under Section 408(k)(6) of the code.

6. Highest average compensation: The words "highest average compensation" mean average annual actual compensation for his high three years, where "high three years" refers to the period of three consecutive limitation years (or the actual number of consecutive limitation years of employment for members who are employed for less than three consecutive years with the city) during which the member was an active member in the retirement system and had the greatest aggregate actual compensation.

7. Limitation year: The words "limitation year" mean the 12-consecutive month period elected by the city which shall be the calendar year. All qualified plans maintained by the city must use the same limitation year. If the limitation year is amended to a different 12-consecutive month period, the new limitation year must begin on a date within the limitation year in which the amendment is made. If a short limitation year is created because of an amendment changing the limitation year to a different 12-consecutive month period, the maximum permissible amount will not exceed the defined benefit dollar limitations multiplied by the following fraction:

$$\frac{\text{Number of months in the short limitation year}}{12}$$

8. Maximum permissible amount: The words "maximum permissible amount" mean the lesser of the defined benefit dollars limitation or 100% of the member's highest average compensation. If the member has less than 10 years of participation with the city, the defined benefit dollar limitation is reduced by one-tenth for each year of participation (or part thereof) less than 10. To the extent provided in treasury regulations or in other guidance issued by the Internal Revenue Service, the preceding sentence shall be applied separately with respect to each change in the benefit structure of the retirement system. If the member has less than 10 years of participation with the city, the compensation limitation (described in Section 415 of the code) is reduced by one-tenth for each year of service (or part thereof) less than 10. The adjustments of this subsection shall be applied in the denominator of the defined benefit fraction based upon years of service. Years of service shall include future years occurring before the member's normal retirement age; and such future years shall include the plan year which contains the date the member reaches normal retirement age, only if it can be reasonably anticipated that the member will receive a year of service for such year. The foregoing 10 year phase-in limitation will be applicable only for changes in benefit structure under the retirement system occurring prior to August 3, 1992, and such limitation shall not be applicable to changes after such date.

(a) If the annual benefit of the member commences before the member's social security retirement age, but on or after age 62, the defined benefit dollar limitation as reduced above, if necessary, shall be determined as follows:

(i) If a member's social security retirement age is 65, the dollar limitation for benefits commencing on or after age 62 is determined by reducing the defined benefit dollar limitation by 5/9 of one percent for each month by which benefits commence before the month in which the member attains age 65.

(ii) If a member's social security retirement age is greater than 65, the dollar limitation for benefits commencing on or after age 62 is determined by reducing the defined benefit dollar limitation by 5/9 of one percent for each of the first 36 months and 5/12 of one percent for each of the additional months (up to 24 months) by which benefit commence before the month of the member's social security retirement age.

(b) If the annual benefit of a member commences prior to age 62, the defined benefit dollar limitation shall be the actuarial equivalent of an annual benefit beginning at age 62, as determined above, reduced for each month by which benefits commence before the month in

which the member attains age 62. To determine actuarial equivalence, the interest rate assumption is the greater of the rate specified in Section 17-3-4-333(A)(1) of the retirement system or 5%. Any decrease in the defined benefit dollar limitation determined in accordance with this subsection (b) shall not reflect the mortality decrement to the extent that benefits will not be forfeited upon the death of the member.

(c) If the annual benefit of a member commences after the member's social security retirement age, the defined benefit dollar limitation as reduced in (3) above, if necessary, shall be adjusted so that it is the actuarial equivalent of an annual benefit of such dollar limitation beginning at the member's social security retirement age. To determine actuarial equivalence, the interest rate assumption used is the lesser of rate specified in Section 17-3-4-333(A)(1) of the retirement system or 5%.

9. Projected annual benefit: The words "projected annual benefit" mean the annual benefit to which the member would be entitled under the terms of the retirement system assuming:

(a) The member will continue employment until normal retirement age under the retirement system (or current age, if later), and

(b) The member's compensation for the current limitation year and all other relevant factors used to determine benefits under the retirement system will remain constant for all future limitation years.

10. Social security retirement age: The words "social security retirement age" mean age 65 in the case of a member attaining age 62 before January 1, 2000 (i.e., born before January 1, 1938), age 66 for a member attaining age; age 62 after December 31, 1999, and before January 1, 2017 (i.e., born after December 31, 1937, but before January 1, 1955), and age 67 for a member attaining age 62 after December 31, 2016 (i.e., born after December 31, 1954).

11. Year of participation: The words "year of participation" means any plan year in which a member both (i) earns an accrued benefit (computed for fractional parts of such plan year) for the plan year and (ii) is treated as a member for at least one day of the plan year. A member who is permanently and totally disabled within the meaning of Section 415(c)(3)(C)(i) of the code for a plan year shall receive a year of participation with respect to that plan year. No more than one year of participation shall be credited for any 12 consecutive month period.

C. Changes due to the Economic Growth and Tax Relief Reconciliation Act of 2001. This subsection C shall be effective for limitation years ending after December 31, 2001. The provisions in this subsection C shall supersede the provisions of the retirement system to the extent these provisions are inconsistent with the provisions of this subsection C.

1. Effect on members. Benefit increases resulting from the increase in the limitations of Section 415(b) of the code will be provided to all employees participating in the retirement system who have one hour of service on or after the first day of the first limitation year ending after December 31, 2001.

2. Definitions.

(a) Defined benefit dollar limitation. The "defined benefit dollar limitation" is \$160,000, as adjusted, effective January 1 of each year, under Section 415(d) of the code in such manner as the secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies.

(b) Maximum permissible benefit. The "maximum permissible benefit" is the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided in (i) and, if applicable, in (ii) or (iii) below).

(i) If the participant has fewer than 10 years of participation in the retirement system,

the defined benefit dollar limitation shall be multiplied by a fraction, (x) the numerator of which is the number of years (or part thereof) of participation in the retirement system and (y) the denominator of which is 10. In the case of a participant who has fewer than 10 years of service with the city, the defined benefit compensation limitation shall be multiplied by a fraction, (x) the numerator of which is the number of years (or part thereof) of service with the city and (y) the denominator of which is 10.

(ii) If the benefit of a participant begins prior to age 62, the defined benefit dollar limitation applicable to the participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the participant at age 62 (adjusted under (a) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of (x) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in the retirement system and (y) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate and the applicable mortality table as defined in the retirement system. Any decrease in the defined benefit dollar limitation determined in accordance with this paragraph (ii) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

(iii) If the benefit of a participant begins after the participant attains age 65, the defined benefit dollar limitation applicable to the participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the participant at age 65 (adjusted under (i) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as (x) the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in the retirement system and (y) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate assumption and the applicable mortality table as defined in the retirement system. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.

D. Annual benefit - General. This subsection D shall be effective for the period beginning January 1, 1987 and ending June 30, 2000 unless otherwise stated herein. This section, except for subsection (b) below, applies regardless of whether any participant is or has ever been a participant in another qualified plan maintained by the city. If any participant is or has ever been a participant in another qualified plan maintained by the city, or a welfare benefit fund, as defined in Section 419(e) of the code, maintained by the city, or an individual medical account, as defined in Section 415(1)(2) of the code, which provides an annual addition, is also applicable to that participant's benefits.

(a) The annual benefit otherwise payable to a participant at any time will not exceed the maximum permissible amount. If the benefit the participant would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible amount, the rate of accrual under this retirement system will be reduced so that the annual benefit will equal the maximum permissible amount.

(b) The limitation in subsection (a) above is deemed satisfied if the annual benefit payable to a participant is not more than \$1,000 multiplied by the participant's number of years of service or parts thereof (not to exceed 10) with the city, and the city has not at any time maintained a defined contribution plan, a welfare benefit plan as defined in Section 419(e) of the code, or an individual medical account as defined in Section 415(1)(2) of the code in which such

participant participated.

(c) If a participant is, or has ever been, covered under more than one defined benefit plan maintained by the city, the sum of the participant's annual benefits from all such plans may not exceed the maximum permissible amount.

(d) If the city maintains, or at any time maintained, one or more qualified defined contribution plans covering any participant in this retirement system, a welfare benefit fund, as defined in Section 419(e) of the code, or an individual medical account as defined in Section 415(1)(2) of the code, the sum of the participant's defined contribution fraction and defined benefit fraction will not exceed 1.0 in any limitation year.

(e) In the case of an individual who was a participant in one or more defined benefit plans of the city as of the first day of the first limitation year beginning after December 31, 1986, the application of the limitations of this article shall not cause the maximum permissible amount for such individual under all such defined benefit plans to be less than the individual's current accrued benefit. The preceding sentence applies only if such defined benefit plans met the requirements of Section 415 of the code, for all limitation years beginning before July 1, 1987.

E. Definitions. This subsection E shall be effective for the period beginning January 1, 1987 and ending June 30, 2000, unless otherwise stated herein. For purposes of calculating the limitations which are otherwise applicable to a participant pursuant to Section 415 of the code and this retirement system, the following definitions shall apply:

(a) Annual additions. The words "annual additions" means for any limitation year the sum of the following amounts credited to a participant's accounts in all qualified defined contribution plans maintained by a city: (i) city contributions, (ii) employee contributions, if any, and (iii) forfeitures. In addition, amounts allocated after March 31, 1984, to an individual medical account, as defined in Section 415(1)(2) of the code, which is part of a pension or annuity plan maintained by a city, and amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of a key employee, as defined in Section 419A(d)(3) of the code, under a welfare benefit fund, as defined in Section 419(3) of the code, maintained by a city, shall also be treated as annual additions.

(b) Annual benefit. The words "annual benefit" mean a retirement benefit under the retirement system which is payable annually in the form of a straight life annuity under all qualified defined benefit plans maintained by a city, excluding any benefits attributable to participant contributions or rollover contributions, if any, to the plans or to any assets transferred from a qualified plan that was not maintained by a city. Except as provided below, a benefit payable in a form other than a straight life annuity must be adjusted to the actuarial equivalent of a straight life annuity before applying the limitations of this article. For limitation years beginning before January 1, 1995, such actuarially equivalent straight life annuity is equal to the greater of the annuity benefit computed using the interest rate specified in the retirement system for adjusting benefits in the same form or 5 percent. For limitation years beginning after December 31, 1994, the actuarially equivalent straight life annuity is equal to the greater of the annuity benefit computed using the interest rate and mortality table (or other tabular factor) specified in the retirement system for adjusting benefits in the same form, and the annuity benefit computed using a 5 percent interest rate assumption and the applicable mortality table defined herein. In determining the actuarially equivalent straight life annuity for a benefit form other than a nondecreasing annuity payable for a period of not less than the life of the participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse), or decreases during the life of the participant merely because of (a) the death of the survivor annuitant (but only if the reduction is not below 50% of the annual benefit payable before the

death of the survivor annuitant), or (b) the cessation or reduction of social security supplements of qualified disability payments (as defined in Section 401(a)(11), the applicable interest rate as set forth in Section 17-3-4-333(A)(1) of the retirement system, will be substituted for "a 5 percent interest rate assumption" in the preceding sentence. No actuarial adjustment to the benefit is required for (a) the value of a qualified joint and survivor annuity, (b) the value of benefits that are not directly related to retirement benefits (such as the qualified disability benefit, pre-retirement death benefits, and post-retirement medical benefits), and (c) the value of post-retirement cost-of-living increases made in accordance with Section 415(d) of the code and Section 1.415-3(c)(2)(iii) of the Federal Income Tax Regulations. The annual benefit does not include any benefits attributable to employee contributions or rollover contributions, or the assets transferred from a qualified plan that was not maintained by the city.

(c) Current accrued benefit. The words "current accrued benefit" mean a participant's accrued benefit under the retirement system, determined as if the participant had separated from service as of the close of the last limitation year beginning before July 1, 1987, when expressed as an annual benefit within the meaning of Section 415(b)(2) of the code. In determining the amount of a participant's current accrued benefit, the following shall be disregarded:

(i) any change in the terms and conditions of the retirement system after May 5, 1986;

(ii) any cost of living adjustments occurring after May 5, 1986.

(d) Defined benefit dollar limitation. The words "defined benefit dollar limitation" mean the defined benefit dollar limitation is \$90,000. Effective on July 1, 1988, and each July thereafter, the \$90,000 limitation above will be automatically adjusted by multiplying such limit by the cost of living adjustment factor prescribed by the secretary of the treasury under Section 415(d) of the code in such manner as the secretary shall prescribe. The new limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

(e) Defined benefit fraction. The words "defined benefit fraction" mean a fraction, the numerator of which is the sum of the participant's projected annual benefits under all the defined benefit plans (whether or not terminated) maintained by the city, and the denominator of which is the lesser of (i) 125% of the defined benefit dollar limitation in effect for the limitation year determined under Sections 415(b) and (d) of the code or (ii) 140% of the highest average compensation, including any adjustments under Section 415(b) of the code. Notwithstanding the above, if the participant was a participant as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined benefit plans maintained by the city which were in existence on May 6, 1986, then, the denominator of this fraction will be not less than 125% of the sum of the annual benefits under such plans which the participant had accrued under such plans as of the close of the last limitation year beginning before July 1, 1987.

(f) Defined contribution dollar limitation. The words "defined contribution dollar limitation" mean \$30,000 (as adjusted under code Section 415(d)) or, if greater, 25% of the defined benefit dollar limitation in effect for the limitation year. Provided, however, effective for plan years beginning after December 31, 1994, the "defined contribution dollar limitation" shall be \$30,000 (as adjusted under code Section 415(d)).

(g) Defined contribution fraction. The words "defined contribution fraction" mean a fraction, the numerator of which is the sum of the annual additions to the participant's account under all the defined contribution plans (whether or not terminated) maintained by the city for the current and all prior limitation years including the annual additions attributable to the participant's nondeductible employee contributions to this and all other defined benefit plans (whether or not terminated) maintained by the city, and the annual additions attributable to all individual medical accounts as defined in Section 415(1)(2) of the code, maintained by the city,

and the denominator of which is the sum of the maximum aggregate amounts for the current and all prior limitation years of service with the city (regardless of whether a defined contribution plan was maintained by the city).

(i) For the purposes of this subsection (i), the "maximum aggregate amount" in any limitation year is the lesser of (1) 125% of the defined contribution dollar limitation in effect or (2) 35% of the participant's limitation compensation for such limitation year.

(ii) If the participant was a participant as of the first day of the first limitation year after December 31, 1986, in one or more defined contribution plans, as defined in Section 414(i) of the code, or a welfare benefit fund, as defined in Section 419(e) of the code, maintained by the city to which contributions have been made by the city, and which were in existence on May 6, 1986, the numerator of this fraction will be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed 1.0 under the terms of this retirement system. Under the adjustment, an amount equal to the product of (1) the excess of the sum of the fractions over 1.0 times (2) the denominator of this fraction, will be permanently subtracted from the numerator of this fraction. The adjustment is calculated using the fractions as they would be computed as of the end of the last limitation year beginning before July 1, 1987 and disregarding any changes in the terms and conditions of the plans made after May 5, 1986, but using the limitations imposed under Section 415 of the code applicable to the first limitation year beginning on or after July 1, 1987. The annual addition for any limitation year beginning before July 1, 1987, shall not be computed to treat all employee contributions as annual additions.

(h) Employee contributions. The words "employee contributions" mean contributions to the retirement system, if any, by a participant during the limitation year, without regard to any rollover contributions (as defined in Sections 402(a)(5), 403(a)(4), 403 (b)(8), and 408 (d)(3) of the code), and without regard to any employee contributions to a simplified employee pension which are excludable from gross income under Section 408(k)(6) of the code.

(i) Employer. The word "employer" means the employer that adopts this retirement system, and all members of a controlled group of corporations (as defined in Section 414(b) of the code, as modified by Section 415 (h)), or affiliated service groups (as defined in Section 414(m)) of which the adopting employer is a part, and any other entity required to be aggregated with the employer pursuant to Section 414(o) of the code.

(j) Highest average compensation. The words "highest average compensation" mean average annual limitation compensation for his high three years, where "high three years" refers to the period of three consecutive limitation years (or the actual number of consecutive limitation years of employment for participants who are employed for less than three consecutive years with the employer) during which the participant was an active participant in the retirement system and had the greatest aggregate limitation compensation.

(k) Limitation compensation. The words "limitation compensation" mean a participant's earned income, wages, salaries, and fees for professional services, and other amounts received (regardless if in cash or other property) for personal services actually rendered in the course of employment with the employer maintaining the retirement system (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses), and excluding the following:

(i) Employer contributions to a plan of deferred compensation which are not included in the employee's gross income for the taxable year in which contributed or employer contributions under a simplified employee pension plan to the extent such contributions are deductible by the employee, or any distributions from a plan of deferred compensation;

(ii) Amounts realized from the exercise of a nonqualified stock option, or when

restricted stock (or property) held by the employee either becomes freely transferrable or is no longer subject to a substantial risk of forfeiture;

(iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and

(iv) Other amounts which received special tax benefits, or contributions made by the employer (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Section 403(b) of the code (whether or not the amounts are actually excludable from the gross income of the participant).

Provided, for limitation years beginning after December 31, 1991, for purposes of applying the limitations of this article, actual compensation for a limitation year is the compensation actually paid or includable in the gross income during such limitation year. Actual compensation for a participant who is permanently and totally disabled (as defined in Section 22(e) of the code) is the compensation such participant would have received for the limitation year if the participant had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled. For limitation years beginning after December 31, 1997, for purposes of applying the limitations of this section, compensation paid or made available during such limitation year shall include any elective deferral (as defined in code Section 402(g)(3)), and any amount which is contributed or deferred by the employer at the election of the employee and which is not includable in the gross income of the employee by reason of code Section 125 or 457.

For limitation years beginning on and after January 1, 2001, for purposes of applying the limitations described in this Section 17-3-4-343, limitation compensation paid or made available during such limitation years shall include elective amounts that are not includable in the gross income of the employee by reason of Section 132(f)(4) of the code.

(l) Limitation year. The words "limitation year" mean the 12-consecutive month period elected by the employer which shall be the calendar year. All qualified plans maintained by the employer must use the same limitation year. If the limitation year is amended to a different 12-consecutive month period, the new limitation year must begin on a date within the limitation year in which the amendment is made. If a short limitation year is created because of an amendment changing the limitation year to a different 12 consecutive month period, the maximum permissible amount will not exceed the defined benefit dollar limitations multiplied by the following fraction:

$$\frac{\text{Number of months in the short limitation year}}{12}$$

(m) Maximum permissible amount: The words "maximum permissible amount" mean the lesser of the defined benefit dollar limitation or 100% of the participant's highest average compensation. Provided, however, effective for years beginning after December 31, 1998, the words "maximum permissible amount" shall mean the defined benefit dollar limitation.

(i) If the participant has less than 10 years of participation in the retirement system, the defined benefit dollar limitation shall be multiplied by a fraction - (a) the numerator of which is the number of years (or part thereof) of participation in the retirement system, and (b) the denominator of which is 10. In the case of a participant who has less than 10 years of service with the employer, the compensation limitation shall be multiplied by a fraction - (a) the numerator of which is the number of years (or part thereof) of service with the employer, and (b) the denominator of which is 10. The adjustments of this subsection (i) shall be applied in the denominator of the defined benefit fraction based upon years of service. For purposes of computing the defined benefit fraction only, years of service shall include future years of service (or part thereof) commencing before the participant's normal retirement age. Such future years

shall include the year which contains the date the participant reaches normal retirement age, only if it can be reasonably anticipated that the participant will receive a year of service for such year, or the year in which the participant terminates employment if earlier.

(ii) If the annual benefit of a participant commences prior to age 62, the defined benefit dollar limitation shall be the actuarial equivalent of an annual benefit beginning at age 62, reduced for each month by which benefits commence before the month in which the participant attains age 62. In no event, however, will the annual benefit be less than \$75,000 (if the benefit commences on or after age 55), or the actuarial equivalent of \$75,000 commencing at age 55 (if the benefit commences before age 55). To determine actuarial equivalence, the interest rate assumption is the greater of the rate specified in Section 17-3-4-333(A)(1) of the retirement system or 5%. Any decrease in the defined benefit dollar limitation determined in accordance with this subsection (ii) shall not reflect the mortality decrement to the extent that benefits will not be forfeited upon the death of the participant.

(iii) If the annual benefit of a participant commences after the participant attains age 65, the defined benefit dollar limitation as reduced in (b) above, if necessary, shall be adjusted so that it is the actuarial equivalent of an annual benefit of such dollar limitation beginning at age 65. To determine actuarial equivalence, the interest rate assumption used is the lesser of the rate specified in Section 17-3-4-333(A)(1) of the retirement system or 5%.

(n) Projected annual benefit: The words "projected annual benefit" mean the annual benefit to which the participant would be entitled under the terms of the retirement system assuming:

(i) The participant will continue employment until normal retirement age under the retirement system (or current age, if later), and

(ii) The participant's compensation for the current limitation year and all other relevant factors used to determine benefits under the retirement system will remain constant for all future limitation years.

(o) Year of participation: The words "year of participation" means any plan year in which a participant both (i) receives benefit accrual service (computed for fractional parts of such plan year) for the plan year and (ii) is treated as a participant for at least one day of the plan year. A participant who is permanently and totally disabled within the meaning of Section 415(c)(3)(C)(i) of the code for a plan year shall receive a year of participation with respect to that plan year. No more than one year of participation shall be credited for any 12 consecutive month period.

F. More than one plan. This subsection F shall be effective for the period beginning January 1, 1987 and ending June 30, 2000, unless otherwise stated herein. This subsection and the following subsection apply if any participant is covered, or has ever been covered, by another qualified plan or a welfare benefit fund, as defined in Section 419(e) of the code, maintained by the employer.

(a) If a participant is, or has ever been, covered under more than one defined benefit plan maintained by the employer, then, the sum of the participant's annual benefits from all such plans may not exceed the maximum permissible amount. If such excess does occur, then, in such event, the accrued benefit earned under this retirement system shall be automatically deemed not to have accrued beyond such limit and such benefit shall be deemed reduced in order that the benefit to be paid to such participant under both plans does not exceed the maximum permissible amount.

(b) If the employer maintains, or at any time maintained, one or more qualified defined contribution plans as defined in Section 414(i) of the code covering any participant in this retirement system (or if after December 31, 1985, the employer maintains a welfare benefit

fund, as defined in Section 419(e) of the code) the sum of the participant's defined contribution fraction and defined benefit fraction will not exceed 1.0 in any limitation year. If such excess does occur, then, in such event, the accrued benefit earned under this retirement system shall be reduced in order that the combined benefit to be paid to such participant under both plans does not exceed the maximum permissible amount.

(c) For purposes of the limitations contained in this Section 17-3-4-343, all defined contribution plans of the employer (whether or not terminated) shall be treated as one defined contribution plan. Similarly, all defined benefit plans of the employer (whether or not terminated) shall be treated as one defined benefit plan for these purposes.

(d) Code Section 415(e) shall not be effective or applicable to the retirement system for limitation years beginning after December 31, 1999. (98-08, Amended, 03/24/1998; 97-26, Amended, 05/27/1997)
(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-344 Mandatory distributions.

The provisions of this section are effective for plan years beginning after December 31, 1984.

A. Required beginning date. If any distribution commencement date described under this Section 17-3-4-339, either by retirement system provision or by participant election (or nonelection), is later than the participant's required beginning date, the board of trustees instead must direct that distribution be made on the participant's required beginning date. A participant's required beginning date is the April 1 following the close of the calendar year in which the participant attains age 70 1/2 or retires, whichever is later. A mandatory distribution at the participant's required beginning date will be in the form of distribution required under Section 17-3-4-339.

B. Minimum distribution requirements for participants. The board of trustees may not direct a participant's benefits be distributed, nor may the participant elect to have his benefits distributed, under a method of payment which, as of the required beginning date, does not satisfy the minimum distribution requirements under code Section 401(a)(9) and the applicable treasury regulations.

1. If the participant's spouse is not his designated beneficiary, an annuity commencing after December 31, 1988, must satisfy the minimum distribution incidental death benefit ("MDIB") requirements of this paragraph. If the annuity benefit provides a period certain without a life contingency, the period certain in effect as of the first distribution calendar year may not exceed the applicable period determined under the maximum period certain table set forth in Treas. Reg. Section 1.401(a)(9)-2. If the annuity with a life contingency includes a period certain, the period certain at any time on or after the participant's required beginning date also may not exceed the maximum period certain determined under the table described in the immediately preceding sentence. If the annuity is a joint and survivor annuity payable for the joint lives of the participant and a nonspouse beneficiary, the survivor percentage in effect at any time on or after the participant's required beginning date may not exceed the percentage determined under the applicable percentage table set forth in Treas. Reg. Section 1.401(a)(9)-2. A joint and survivor annuity under which the survivor percentage does not exceed 52% always satisfies this paragraph. A life annuity payable to the participant, without any period certain, is not subject to the MDIB requirements of this paragraph.

2. A lump sum distribution made on or before a participant's required beginning date of his entire benefit under the retirement system satisfies the minimum distribution requirements.

C. Minimum distribution requirement for beneficiaries. The method of distribution to the participant's beneficiary must satisfy code Section 401(a)(9) and the applicable treasury regulations.

1. If the participant's death occurs after his required beginning date or, if earlier, the date the participant commences an irrevocable annuity, the method of payment to the beneficiary must provide for completion of payment over a period which does not exceed the payment period which had commenced for the participant.

2. If the participant's death occurs prior to his required beginning date, and the participant has not commenced an irrevocable annuity, the method of payment to the beneficiary must provide for completion of payment over a period not exceeding:

(a) 5 years after the date of the participant's death (with payments completed by December 31 of the calendar year in which occurs the 5th anniversary of the participant's date of death); or

(b) if the beneficiary is a designated beneficiary, over the designated beneficiary's life or life expectancy.

The board of trustees may not direct payment over a period described in clause (b) unless payment will commence to the designated beneficiary no later than the December 31 following the close of the calendar year in which the participant's death occurred or, if later, and the designated beneficiary is in participant's surviving spouse, the December 31 of the calendar year in which the participant would have attained age 70 1/2. The board of trustees must use the unisex life expectancy multiples under Treas. Reg. Section 1.72-9 for purposes of applying this paragraph. (97-26, Amended, 05/27/1997)
(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-345 Termination of benefits.

A. A member whose employment is terminated for any reason other than death or total and permanent disability prior to the completion of ten (10) years of creditable service shall be entitled to the return of the member's accumulated contributions as of his date of termination.

B. A member whose employment is terminated for any reason other than death or retirement after the completion of ten (10) years of creditable service may elect to receive a deferred monthly benefit, transfer his retirement contributions and the city's retirement contributions to another qualifying retirement plan, or withdraw his retirement contributions and the city's contributions. If the member elects to receive a deferred monthly benefit, the deferred monthly benefit shall commence on the last day of the month in which he attains his normal retirement date or on the last day of any month which is within the ten-year period immediately preceding his normal retirement date; and, in either case, such benefit shall be payable on the last day of each month thereafter during his lifetime. The amount of monthly benefit shall be computed in the same manner as for a normal retirement benefit in accordance with Section 17-3-4-339 but based on the member's average final monthly compensation and creditable service as of his date of termination; and the benefit so computed shall be reduced, if applicable, by five-twelfths percent (5/12%) for each complete month by which the member's deferred monthly benefit payments commence precedes the member's normal retirement date.

C. If any retired or terminated member dies without having received in benefit payments an amount equal to his member's accumulated contributions as of his date of termination or retirement, there shall be payable to his designated beneficiary an amount equal to the excess, if any, of the member's accumulated contributions as of his date of termination or retirement over the total monthly benefit payments made to the member prior to his date of death, except that the provisions of Section 17-3-4-344 hereof shall apply if benefits are payable

after the member's death under an optional form of retirement benefits then in effect.

D. A member shall be deemed a terminated member only at such time as he is no longer employed by the city.

E. Any member who is found guilty in a court of competent jurisdiction of committing, aiding or abetting any embezzlement or theft from the city, or bribery in connection with the employment committed prior to retirement, or any member whose employment is terminated by reason of his admitted commitment aiding or abetting an embezzlement or theft from the city or such bribery shall forfeit all rights and benefits under the retirement system except the return of his member's accumulated contributions as of his date of termination.

F. Any member who prior to retirement or termination is adjudged by a court of competent jurisdiction to have violated any state law against strikes by public employees or who has been found guilty by such courts of violating any state law prohibiting strikes by public employees shall forfeit all rights and benefits under the retirement system except the return of his member's accumulated contribution as of the date of his conviction. (98-08, Amended, 03/24/1998; 97-26, Amended, 05/27/1997)
(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-346 Optional forms of retirement benefits.

A. In lieu of receiving his monthly benefits in the amount payable during his lifetime as provided in Sections 17-3-4-339, 17-3-4-340, 17-3-4-341 or 17-3-4-343 of this chapter, whichever is applicable, a member entitled to a monthly benefit under any of such sections may elect, prior to the receipt of his first monthly retirement payment, to receive the retirement benefits to which he is entitled under Section 17-3-4-339, 17-3-4-340, 17-3-4-341 or 17-3-4-343 of this chapter, whichever is applicable, in accordance with any of the following options:

1. Option 1: A decreased retirement benefit payable to the member during his lifetime; and, in the event of his death within a period of ten (10) years after his retirement benefit payments commenced, the same monthly amount shall be payable for the balance of such ten-year period to his beneficiary or in case the beneficiary is deceased, in accordance with Section 17-3-4-348 as though no beneficiary has been named;

2. Option 2: A decreased benefit which shall be payable during the joint lifetime of both the member and his joint annuitant and which shall continue after the death of either during the lifetime of the survivor in the same amount; or

3. Option 3: A decreased retirement benefit which shall be payable during the lifetime of the member and which shall continue after the death of the member in an amount of sixty-two and two-thirds percent (66 2/3%) of the amount which was payable during the lifetime of the member and shall be payable to the member's joint annuitant during the joint annuitant's lifetime only.

B. The benefit payable under any option stated above shall be based on tables provided by the qualified actuary and adopted by the pension commissioners for this purpose.

C. A member who elects option 1 shall, in accordance with Section 17-3-4-346 of this chapter, designate a person to receive the benefits payable in the event of his death. Such person shall be the beneficiary of the member.

D. A member who elects option 2 or 3 shall, on a form provided for that purpose, designate his spouse or other dependent to receive the benefits which continue to be payable upon the death of the member. Such person shall be the joint annuitant of the member.

E. The election of an option shall be null and void if either the member, designated beneficiary, or designated joint annuitant shall die before benefits commence.

F. If the retired member and his beneficiary or joint annuitant both die without

having received in benefit payments an amount equal to the member's accumulated contributions, there shall be payable to his beneficiary (or, in case the beneficiary is deceased, in accordance with Section 17-3-4-348 of this chapter as though no beneficiary had been named), an amount equal to the excess of the member's accumulated contributions over the total monthly benefit payments made to both the member and his beneficiary or joint annuitant prior to their death. (97-26, Amended, 05/27/1997)
(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-347 Death benefits.

A. If the employment of a member is terminated prior to the completion of ten (10) years of creditable service by reason of his death, for a reason other than death in the line of duty, there shall be payable to his designated beneficiary the member's accumulated contributions.

B. If the employment of a member is terminated by reason of his death on or after the completion of ten (10) years of creditable service but prior to his actual retirement and for a reason other than death in the line of duty, the member's surviving spouse shall receive a monthly benefit which shall commence the day after the date when the member's death occurred and shall be payable on the last day of each month thereafter during the lifetime and prior to the remarriage of such surviving spouse. If the surviving spouse remarries, the benefit payments shall terminate on the date of remarriage. The amount of each monthly payment under this subsection shall be computed in the same manner as for a normal retirement benefit in accordance with Section 17-3-4-339 but based on the member's average final monthly compensation and creditable service as of the date of his death; however, the value of the benefit determined under this subsection shall not be less than the value of the benefit determined under subsection A of this section.

C. The surviving spouse of any member killed in the line of duty shall receive a monthly benefit, which shall commence on the day after the day when the member's death occurred and shall be payable on the last day of each month thereafter during the lifetime and prior to the remarriage of such surviving spouse. If the surviving spouse remarries, the benefit payments shall terminate on the date of remarriage. The amount of each monthly payment under this subsection shall be equal to half of the member's monthly rate of earnings at the time of his death; however, the value of the benefit determined under this subsection shall not be less than the value of the benefit determined under subsection B of this section.

D. If a member has no surviving spouse at the date of his death or if the member's surviving spouse dies prior to remarriage, the monthly payments, if any, which would have been payable to such surviving spouse under subsection B or subsection C above if he or she lived shall be paid for use and benefit of such member's dependent child or children.

E. If there is no surviving spouse or dependent child at the death of a member who would otherwise be qualified for a benefit under subsection B or C above, the benefit determined under subsection A of this section shall be payable on behalf of such member.

F. If the employment of a member whose creditable service commenced prior to November 1, 1975, and who was a member of the superseded retirement system is terminated by reason of his death, his beneficiary otherwise entitled to the benefit payable on his behalf under the above provisions of this section may elect to receive, in lieu of the benefits provided above in this section, a lump sum benefit in an amount equal to the lump sum death benefit which would have been payable on behalf of such member under the provisions of the superseded retirement system if his death had occurred on November 1, 1975. Such lump sum benefit shall be payable

as of the last day of the month next following the date of the member's death. (97-26, Amended, 05/27/1997)
(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-348 Designation of beneficiaries.

A. The benefits which are specifically payable under the provisions hereof only to the member's surviving spouse or dependent children shall be payable only to such surviving spouse or dependent children, and no other person or persons may be designated to receive such benefits.

B. Benefits payable after a member's death which are not specifically payable under the provisions hereof only to the surviving spouse or dependent children of the member may be payable to some other beneficiary in accordance with the provisions of this subsection. Each member may, on a form provided for that purpose, signed and filed with the pension commissioners, designate a choice of one or more beneficiaries, named in sequence, to receive the benefits, if any, which may be payable in the event of his death pursuant to the provisions hereof. If no beneficiary is named in the manner provided above, or if no beneficiary designated by the member survives him, the pension commissioners shall direct the payment of such benefits to the spouse of the deceased, if living. If the member's spouse is not alive at his death, any payments to which he was entitled shall be paid to the living children of the member, or on their behalf if under eighteen (18) years of age. If no children survive, any remaining benefits shall be payable to the member's father or mother, if living; otherwise, to the legal representative of the member's estate. (97-26, Amended, 05/27/1997)
(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-349 Rollover to another plan or IRA.

This Section 17-3-4-349 applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the retirement system to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The board of trustees shall establish procedures for implementing such direct rollover distribution.

A. Definitions. For purposes of this Section 17-3-4-349, the following definitions shall apply:

1. Eligible rollover distribution: An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's eligible spouse, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the code; and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer stock). Effective for all distributions occurring on or after January 1, 2000, an eligible rollover distribution described in code Section 401(c)(4), which the participant can elect to rollover to another plan pursuant to code Section 401(a)(31), excludes hardship withdrawals as defined in code Section 401(k)(2)(B)(i)(IV) which are attributable to the participant's elective contributions under

Treasury Regulation Section 1.40(k)-1(d)(2)(ii). With respect to distributions made after December 31, 2001, for purposes of the direct rollover provisions in this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

2. Eligible retirement plan: An "eligible retirement plan" is an individual retirement account described in Section 408(a) of the code, an individual retirement annuity described in Section 408(b) of the code, an annuity plan described in Section 403(a) of the code, or a qualified trust described in Section 401(a) of the code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. With respect to distributions made after December 31, 2001, for purposes of the direct rollover provisions in this section, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the code and an eligible retirement system under Section 457(b) of the code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this retirement system. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternative payee under a qualified domestic relation order, as defined in Section 414(p) of the code.

3. Distributee: A "distributee" includes a participant or former participant. In addition, the participant's spouse or former participant's surviving spouse and the participant's or former participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse.

4. Direct rollover: A "direct rollover" is a payment by the retirement system directly to the eligible retirement plan specified by the distributee. (97-26, Amended, 05/27/1997) (Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-350 Reemployment of former employees.

If an employee's employment is terminated prior to becoming eligible for a pension and the employee is subsequently reemployed by the city, the employee will receive credit for his previous period of employment upon repayment to the pension system contributions and interest which the employee was reimbursed upon termination. Such repayment must be made within six (6) months following the passage of Ordinance No. 690 or by the end of the six-month introductory period following reemployment. In any case an employee shall be included in this system as of the eligibility period following his reemployment. In the event a former employee is employed by the city and that employee is prohibited by provisions of this code or contract from joining the pension system on repeal or amendment to the code or contractual agreement of the provisions prohibiting said membership the employee shall be allowed a period of ninety (90) days to pay the pension system and any and all contributions that would be required to be paid by the employee to receive credit for previous time served with the city for which they are not receiving monthly retiree benefit amounts from some other retirement plan or system to which

the City of Lawton contributed. (97-26, Amended, 05/27/1997)
(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-351 Employment after retirement; Limitation.

A. Any person who has accepted and is receiving retirement benefits under this retirement system may be employed by the city only if the city is unable to employ a qualified individual who has not retired; and such employment shall not affect the rights of such retired member under this retirement system, including, without limiting the general terms thereof, his right to receive his retirement benefits. Such reemployment must be approved by the city manager.

B. The employment by the city of any retiree referred to in subsection A of this section shall have no effect on the average final monthly compensation or years of creditable service of such retiree, nor shall any deduction for retirement contributions be made from the compensation received by such retiree with respect to such employment. (97-26, Amended, 05/27/1997)
(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-352 Credit for actual military service.

A. Creditable service of any member shall also include military service not in excess of four (4) years of initial enlistment, whichever is less, provided:

1. The member was in the active employ of the city immediately prior to such service and was granted official military leave of absence and is legally entitled to reemployment under the provisions of the Universal Military Training Service Act, the Uniformed Services Employment and Reemployment Rights Act, or other law applicable to such reemployment; and said member shall apply for and be reemployed within ninety (90) days from his date of discharge or separation from active military service;

2. The member makes the required contributions for service credit during such period based on his rate of monthly earnings as of his date of entry into wartime service; and

3. Any member who was in the active employ of the city on November 1, 1975, will be granted service credit for military service prior to that date, where reemployment occurred within ninety (90) days and the military service does not exceed four (4) years or initial enlistment, whichever is less. (97-26, Amended, 05/27/1997)

(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-353 Future service to include authorized leave of absence.

A. Creditable service of any member shall also include authorized leaves of absence after November 1, 1975, provided:

1. The member has completed a minimum of ten (10) years of creditable service excluding periods of leave of absence;

2. The leave of absence is authorized in writing by the city manager and approved by the pension commissioners;

3. The leave does not exceed twelve (12) months at any one time nor twenty-four (24) months in total during his employment; and

4. The member makes the required contributions for service credit during the leave of absence, which shall be four percent (4%) of his rate of monthly earnings in effect immediately prior to the commencement of such leave for each month of such period. (97-26, Amended, 05/27/1997)

Section 17-3-4-354 Administration of retirement system-Pension commissioners.

A. The general supervision of the administration of the retirement system shall be by seven pension commissioners who are appointed by the mayor with confirmation by the city council and as from time to time are duly qualified and acting. The pension commissioners duly appointed and acting under the superseded retirement system as of October 31, 1975, shall continue to serve on and after November 1, 1975, under the revised retirement system until they resign or are dismissed. Upon the expiration of the term of any pension commissioner, a new pension commissioner will be selected by the mayor and city council to serve for a period of five years to fill the expired term or until the pension commissioner resigns or is dismissed. A pension commissioner can be dismissed by a vote of a simple majority of the city council. In case of resignation or dismissal of a pension commissioner, the mayor with confirmation by the city council, shall appoint a new pension commissioner to fill any unexpired term. Should a pension commissioner miss three consecutive meetings without a justified excuse, he shall be dismissed and replaced by the city council.

B. The pension commissioners shall serve without compensation for their service.

C. This retirement system and matters related hereto shall be considered and resolved at meetings of the pension commissioners, to be held as often as may be required for settlement of matters relating hereto. A majority of the pension commissioners shall constitute a quorum; and all decisions, acts and resolutions of the pension commissioners shall be by an affirmative vote of at least four pension commissioners. All of the pension commissioners shall receive written notice at least two days prior to a meeting date, and a written agenda shall be included therewith.

D. The pension commissioners by resolution, with the advice and consent of the city manager, may promulgate written rules and regulations not in conflict with the expressed terms of this retirement system or the Charter to cover the operations of any phase or part of the retirement system as provided hereunder. Copies of such rules and regulations shall be furnished to any member of the retirement system upon request, and at least one copy thereof shall be kept available in the office of the city clerk for examination by an interested person at any time during ordinary business hours. Otherwise, a copy of this retirement system shall fully meet the provisions herein.

E. The pension commissioners have the power to construe all terms, rules, conditions and limitations of the retirement system; and their construction made in good faith shall be final and conclusive upon all parties' interests.

F. The pension commissioners shall have the power to select, employ and compensate, or cause to be compensated from time to time such consultants, actuaries, accountants, attorneys, investment counsel and other agents and employees as they may deem necessary and advisable in the proper and efficient administration of the retirement system.

G. The powers and duties of the pension commissioners or other persons set out herein are not intended to be complete or exclusive, but each such body or persons shall have such powers and duties as are reasonably implied under the terms of this retirement system. Where not in conflict with this retirement system or the Charter, the trust agreement shall govern.

H. The pension commissioners shall appoint a chairman and a secretary from among its members. They may appoint such agents or representatives, who need not be pension commissioners, as they deem necessary for the effective performance of this retirement system. They may delegate to such agents or representatives such powers and duties, whether ministerial

or discretionary, for the investing, accounting, actuarial and legal responsibilities, as the pension commissioners may deem expedient or appropriate. Expenses of such agents and representatives shall be paid by this retirement system.

I. Accurate minutes and records shall be kept of the acts of the pension commissioners under this retirement system. This provision is made for the express purpose of having all proceedings in connection with this retirement system in one set of books. They shall be available to the public, city officials and employees under this retirement system at all times.

J. All notices, elections, designations and changes of beneficiaries and similar writings pertaining to the operation of the retirement system shall be made and preserved in writing on such forms as the city manager or pension commissioners may direct. All records shall be maintained in segregated files pertaining to the retirement system, and they shall not be intermingled with other files of the city.

K. The pension commissioners shall have authority to direct that retirement system funds be deposited with banks or savings and loan associations or invested in securities, to negotiate appropriate contracts with a bank having trust power, or an insurance company or companies, under the terms of which trust agreements or contracts funds will be deposited with the bank, company or companies as determined by the pension commissioners; and annuities may be provided for members and their beneficiaries in accordance with the terms of this retirement system. The pension commissioners may terminate such trust agreements or contracts or negotiate amendments as they see fit.

L. The trustee or insurance company or companies with which a trust agreement or contract or contracts are entered into for the administration of the retirement system shall submit a statement of the condition of the funds on deposit to the credit of the retirement system at least once yearly and may be required to supply copies of such statement to an actuarial consultant designated by the city council. The original shall be retained among the records of the secretary of the pension commissioners. Annual reports, as provided by state law, shall be furnished to the proper state authorities.

M. Each member or beneficiary or other interested member shall be responsible for advising the pension commissioners of his correct mailing address, and shall promptly advise the pension commissioners relating to any error, in whomsoever's favor, in connection with the payment of benefits or any other payment under or in connection with the retirement system.

N. Pension payments, although not promptly paid for any reason, and any other payments to be made out of the fund, although not paid promptly for any reason, shall not bear interest unless so ordered by the pension commissioners, who shall have discretion to fix the rate and calculate any such interest; and in such event, the interest to be paid shall not exceed the then current rate of interest being returned on the funds on deposit with the trustee or the insurance company or other financial institution.

O. Each member of the pension commission shall use ordinary care and diligence in the performance of his duties and shall not be liable for any loss unless same results from his own gross negligence, or his willful misconduct; nor shall such members be personally liable upon or with respect to any agreement, act, transaction or omission executed, committed or suffered to be committed himself as one member of said body or any other member, agent, representative or employee of any body; moreover, said bodies and members and agents thereof shall each be fully protected in relying on the advice of the city attorney or his assistants, or upon any other attorney employed by the city or said bodies, or either of them, insofar as legal matters are concerned, or any accountant similarly employed so far as actuarial matters are concerned. Any person having any claim under the retirement system shall look solely to the assets of the fund for the satisfaction of such claims.

P. Whenever any retirement annuities shall be less than ten dollars (\$10.00) per month, the pension commissioners may elect to have payments made quarterly. If the annuity payable at quarterly intervals shall be less than ten dollars (\$10.00), the pension commissioners may elect to pay the computed value of the same, calculated at regular interest, in a lump sum. Such election shall be made within six months after the member's retirement unless he consents in writing to a subsequent election by the pension commissioners under this section.

Q. When any notice, election or other instrument is required or permitted hereunder to be filed with the pension commissioners, the same may be filed with the city clerk.

R. The pension commissioners shall periodically review the sufficiency of the pension benefits available to participants or retirees of the retirement system. Pension payments may be periodically increased or adjusted, provided the increase or adjustment must be approved and recommended by a qualified actuary employed by the retirement system. The pension commission's determination can only be implemented with the concurrence of the city council. (97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)

Section 17-3-4-355 Future changes in the operation of the retirement system.

It is contemplated, and all original and new members of the retirement system shall be deemed to have notice, that the city council may in the future decide that it is in the best interests of the city and the members of the retirement system to modify or terminate trust agreements or contracts entered into with the trustee or insurance company or companies; to exercise options available to the city under the terms of such trust agreements or contracts; or to select another insurance company, trustee or other financial institution as the depository for pension funds. The city shall have the right to amend at any time and from time to time the terms and provisions of the retirement system and to terminate the retirement system, and any of which actions shall be accomplished by ordinance of the city. No such amendment or termination shall, however, deprive any participant of any vested interest in any benefits then purchased and paid for with respect to him under the terms of the retirement system and to which the participant has a then vested interest. (97-26, Amended, 05/27/1997)
(Ord. 2006-81, Amended, 10/24/2006)

Section 17-3-4-356 Protection against fraud and deceit-Violations and punishments.

Whosoever with intent to deceive shall make or cause to be made any statement, report, certificate, election notice, claim or other instrument authorized or required under the retirement system, whether of the enumerated classes or otherwise, which shall be untrue, or who shall falsify or cause to commit to be falsified any record comprising any part of the operation or administration of the retirement system contemplated hereunder shall be punished as provided in Section 1-119 of this code. Any such violation shall also be punishable as provided under the laws of the state. (97-26, Amended, 05/27/1997)