Employment Agreement
Fiscal Years
2015-2017

International Association of Firefighters, Local 1882

And

The City Of Lawton, Oklahoma

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EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into this First day of July, 2015, 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. Failure to obtain any required certifications and/or licensure for the entry level employee prior to completion of the probationary period 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, 2015, and shall continue in full force and effect until 11:59 p.m. on June 30, 2017 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 2016/2017 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 Manager of City of Lawton, City Hall, 212 SW 9th Street, 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 on behalf of any employee covered under this Agreement may file a grievance within thirty (30) 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 Union will present the grievance to the Fire Chief's office in writing. The grievance must be so presented within thirty (30) 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 a Union steward. The Bargaining Agent shall furnish the Employer a list of all 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 on 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 while the probationary firefighter is in Basic Academy. The dues deduction of probationary firefighters who have completed the Basic Academy shall not alter the inability of probationary firefighters to grieve disciplinary action under the provisions of Article 6 of this Agreement. 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 also 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.

As consideration for collecting the monthly Bargaining Agent dues, the City shall be entitled to charge an annual fixed administrative fee of $550.00. This payment shall be made to the City of Lawton to cover the cost of administering the dues check off program and such payment shall be used for the purpose of maintaining/replacing Fire Department fitness equipment. Such payment will be made no later than thirty (30) days after the start of the fiscal year.

9.6A. Seniority. NOTE: Article 9.6A will be in effect for FY-15-16. Effective July 1, 2016 Article 9.6A will expire and have no force or authority.

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.

9.6B. Seniority. NOTE: The terms and conditions of Article 9.6B will become effective on July 1, 2016 when Article 9.6A expires.

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;

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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. Temporary vacancies requiring persons to work out of classification will be filled according to Article 13.7.

9.7. Promotional Appointments. All promotional appointments to a higher rank or re-assignments to a different job classification shall be subject to a probationary period of twelve (12) months from the date of appointment. At any time during this probationary period, the City Manager may demote and/or re-assign a member to their previous rank/assignment whose performance does not meet the required work standards and management expectations. Any member on probation due to a promotional appointment or a voluntary re-assignment to a

different job classification shall have the right to return to their previous position held immediately prior to their promotional appointment or re-assignment so long as the member's request is made within six (6) months of the promotion and/or re-assignment status. Any member who is either promoted or voluntarily re-assigned to a staff position shall serve the minimum service time required for the staff position as required by the appropriate LFD policy prior to being eligible to request a voluntarily return to the Operations Division in their previous rank through a naturally occurring vacancy.

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.

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, reprimand, and/or counseling sessions for violations of any rules, regulations or policies within the City of Lawton 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 upon request by the member, with the approval of the Fire Chief, who shall first consult with the Human Resources Director, from the personnel file of the individual member after 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 immediate 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. Any supervisor below the position of Division Head will be required to get approval from the respective member's Division Head or above prior to being allowed access to a member's personnel file. Permission shall not be automatic and should only be granted after the supervisor has demonstrated a legitimate reason for accessing a member's personnel file.

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 Article 15.2g 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 devise, 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 Monday through Friday 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 Nationwide Frontline 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 (One shirt must be long sleeve for purposes of meeting Class A dress uniform requirement.)	6 long sleeve white polyester dress shirts 2 BDU Shirts
6 Nomex pants	6 short sleeve white polyester dress shirts 2 BDU Pants
	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 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, 1 gear bag	5 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 shoes (athletic or dress) 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.

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, 2015, 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:	$43.26
Employee & Child(ren):	$176.00
Employee & Spouse:	$180.65
Employee & Family:	$187.31
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:	$169.71
Employee & Child(ren):	$302.45
Employee & Spouse:	$307.10
Employee & Family:	$313.76

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. *For purposes of FY-15-16, while the City retains the right to implement a rate increase when the above conditions are met, the Union agrees not to demand strict performance of this provision unless the fund balance takes a steep decline. For purposes of clarification a "steep decline" would be a fund balance of (-$500,000.00) or worse.

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 Heath 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.

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.

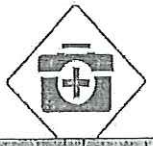
12.5 July 1, 2016 Modifications to Health Plan.

Effective July 1, 2016 the following benefit modifications will occur to the health plan. The Local agrees to be bound by these modifications. After July 1, 2016 the modifications set forth below will control over any conflicting language in Articles 12.1 through 12.4 above. Specifically, the July 1, 2016 modifications are as listed below:

1. Dental insurance will become an optional benefit similar to vision coverage. Specifically, dental will be separate from the City's health fund.

2. Modify benefits as set forth on the next two pages.

Medical Benefits Summary



	In Network	Out of Network
	BlueOptions PPO & BlueCard PPO	Blue Traditional
Lifetime Maximum Benefit (Per Individual)	Unlimited	
General Level of Coverage (Coinsurance)	80% after deductible	50% after deductible
	In Network YOU PAY...	Out of Network YOU PAY...
Fiscal Year Deductible - Individual [1] - Family Maximum	 $1000 $3000	 $2500 $7500
Out of Pocket Maximum (Includes Deductible) [2] - Individual - Family Maximum	 $6,000 $12,000	 N/A N/A
Wellness - Childhood Immunizations - Colonoscopy (Age 40-49) (Age 50+) - Mammogram - OB/GYN Exam (Routine) - Pap Smear - PSA (Age 40+)	 $0 $0 (1 every 5 years) $0 (1 per year) $0 $0 $0 $0	 50% after deductible 50% after deductible (1 every 5 years) 50% after deductible (1 per year) 50% after deductible 50% after deductible 50% after deductible 50% after deductible
Physician Office Visit [3]	$20 copay	50% after deductible
Diagnostic Services & X-Ray Complex Imaging	20% after deductible	50% after deductible
Laboratory Services	$0, as part of office visit	50% after deductible
Urgent Care and Specialist	$40 copay	50% after deductible
Emergency Room Visit	$150 copay per visit, then deductible and 20% coinsurance apply (copay waived if admitted)	$150 copay per visit, then deductible and 50% coinsurance apply (copay waived if admitted)
Ambulance	20% after deductible	50% after deductible
Hospital Care - Inpatient - Outpatient	 20% after deductible 20% after deductible	 50% after deductible 50% after deductible

[1] Amounts will apply to both In Network and Out of Network deductibles.

[2] When a covered participant has paid the out-of-pocket amounts shown for covered expenses during a benefit period, the benefits payable shall increase to 100% for the remainder of that benefit period. The out-of-pocket amounts do not include the $100 deductible for non-emergency use of an emergency room, office visit copayments and prescription drug copayments.

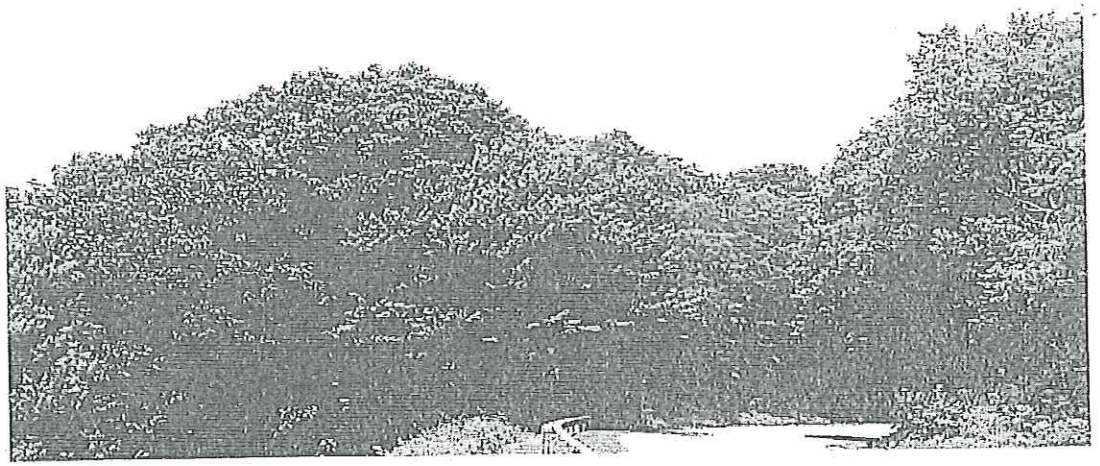
[3] The copayment applies to the charge for the office visit and any charges for injections that are billed as part of the office visit. Benefits will be payable at 100% of the Allowable Charge after the copayment, up to $200 per covered participant. Charges in excess of $200 will be subject to the Deductible and Coinsurance provisions of the Plan. When receiving Out of Network care, the member is responsible for any amount over the BCBSOK allowable.

Prescription Drug Summary

	Up to 34 Day Supply	35 to 102 Day Supply
Generic Plus	$0 to $10	1 copay for each 34-day supply
Brand Name	$25 or 25% of the cost, whichever is higher	1 copay for each 34-day supply
Non-Preferred	$35 or 35% of the cost, whichever is higher	1 copay for each 34-day supply
Specialty	$40 or 40% of the cost, whichever is higher	1 copay for each 34-day supply

Mail Order Prescription Drug Program

The mail order prescription drug program, administered by BlueOptions PPO (Oklahoma) www.bcbsok.com or BlueCard PPO (Outside Oklahoma) www.bluecares.com, is a convenient, cost-effective way to receive up to a 102-day supply of prescription drugs without going to the pharmacy. Your medication is delivered by mail directly to your home. Mail-order prescription drugs are available for maintenance medications (those that are taken for a long period of time such as drugs prescribed for diabetes, high blood pressure, asthma, etc). You will want to request a prescription for a 102-day supply from your physician. Mail-order prescription drugs are paid at the time of service. For more information call 877-794-3574 or visit www.myprimemail.com.



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 Friday in May. (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. A degree plan with courses of study in the degree or applicability to their position with the City or other City position.

b. Financial Assistance Award Statement, Student Aid Report (SAR) 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.

E. 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 his designee at their discretion, who shall determine the number of members needed. Except for emergency overtime, 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. Absent the formal declaration of an emergency by the City, emergency overtime shall be overtime needed within four hours for an emergency incident.

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 two hundred (200) hours. Any member who currently has more than two hundred (200) hours of compensatory time banked will not be allowed to accrue more compensatory time until his/her total falls below two hundred (200) hours.

Upon permanent separation from City service such as retirement, resignation, termination, or death of a member, said member [or member's estate in the event of the member's death] will be allowed to exchange any earned compensatory time off credit at the member's hourly rate at the time of separation. Additionally, a member will have the option of cashing out compensatory time under the following provisions:

a. A member shall be allowed to cash out up to 40 hours per quarter;

b. The cash-out option shall be paid by the City on the first non-payday Friday in January, April, July and October. A written

request for the cash-out option shall be made at least two (2) weeks prior to the payout date.

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 five (5) employees are off on any given shift the member will be allowed to take compensatory time hours in any amount at his discretion per guidelines of the Fire Department leave policy.

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 $500.00 biweekly, whenever he is designated to be on standby duty.

13.7A. Working Out of Classification. NOTE: The provisions of Article 13.7A (previously Article 13.7) that were in effect on June 30, 2015 will be in effect for FY-15-16. The provisions of Article 13.7A that had expired prior to June 30, 2015 will not be in effect during FY-15-16 (for example: those provisions of Article 13.7A applying to FY-13-14 will not be in effect during FY-15-16). Effective July 1, 2016 Article 13.7A will expire and have no force or authority. Working out of classification will mean an assignment of a member, for a limited period of time, to a higher position classification.

a. For Fiscal Year 2013-2014,: any shift member required to work in a higher classification during any given bi-weekly pay period shall be paid the additional applicable amount set forth below per hour for each hour actually worked out of classification for the additional responsibility. Specifically:

During FY-2013-2014 contract year:

Corporal moved up to Driver = an additional $1.00 per hour,
Sergeant moved up to Company Officer = an additional $1.50 per hour,
Lieutenant moved up to Captain = an additional $1.75 per hour,
Captain moved up to Major = an additional $2.25 per hour,
Major moved up to Assistant Chief = an additional $3.00 per hour.

b. For Fiscal Year 2013-2014: Any Training Division 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.

c. Beginning in the second half of Fiscal Year 2014-2015 (i.e. January 2015 when the 3% pay raise takes affect) and continuing thereafter, members of the bargaining unit who are required move up and work temporarily in a higher classification will no longer be eligible to receive working out of classification pay. The 3% pay raise given during the second half of FY-2014-2015 shall constitute a buy out of working out of classification pay. From that point forward the need from time to time for a member to work out of class in a higher classification shall be considered a job requirement for which no additional compensation beyond one's regular wages will be provided.

d. For purposes of working out of class, members assigned to the station where the vacancy creating the need for working out of class exists shall be required to move up at that station according to their time in grade. However, in the event a member from another station is needed to work out of class outside of his assigned station, the working out of class shall be offered to the qualified member using Time-in-Grade. If no qualified member is found the vacancy shall be filled by the member with the most Time-in-Grade.

After January 2015, for purposes of working out of class, members assigned to the station where the vacancy creating the need for working out of class exists shall be required

to move up at that station according to their time in grade. However, in the event a member from another station is needed to work out of class outside of his assigned station, the current move up matrix will be used.

13.7B. Working Out of Classification. NOTE: The terms and conditions of Article 13.7B will become effective on July 1, 2016 when Article 13.7A expires.

Working out of classification will mean an assignment of a member, for a limited period of time, to a higher position classification without additional compensation; i.e. the person working out of classification will not receive any increase in pay for working out of classification. For the purpose of working out of class, members assigned to the station where the vacancy creating the need for working out of class exists shall be required to move up at the station according to their time in grade. However, in the event a member from another station is needed to work out of class outside of his assigned station, the current move up matrix will be used. This article shall not apply to members who have been restricted from working out of class as part of a formal discipline.

Three exceptions to the above working out of class formula are as follows:

1. **Extended Leave Exception.** An extended leave exception shall exist for making working out of classification assignment for Company Officers at single company stations when the regular company officer has been absent for more than twelve (12) consecutive shifts. In such an instance of a continued temporary vacancy, the vacancy may be filled by temporarily transferring an eligible Company Officer to fill the vacancy.

   a. The Company Officers eligible for the transfer are the Company Officers that are not already permanently assigned to be in charge of a station and are already permanently assigned to the shift where the vacancy has occurred.

   b. The eligible Company Officers will be asked by time in grade if they want to transfer until a Company Officer accepts the temporary transfer. If no Company Officer accepts the transfer, the eligible Company Officer with the most time in grade on the shift where the vacancy exists will be required to fill the position.

   c. Once the member that created the vacancy returns to duty all other members working out of class as a result of the temporary vacancy will return to their regularly assigned positions.

d. If the member that created the temporary vacancy is ultimately unable to return to duty [i.e. said individual retires, resigns or is terminated] the vacancy will be permanently filled by promotion. In such an event all other members working out of class as a result of the temporary vacancy will return to their regularly assigned positions.

2. **Same-Day Working Out of Class Assignments Exception.** During the course of a regularly scheduled work shift when the need arises to temporarily fill a vacancy that has occurred since the beginning of the shift, the on-duty Battalion Chief [or on-duty equivalent position until the Battalion Chief is established and filled] may assign personnel to work out of class at his discretion. Consideration such as reducing the amount of personnel moves required to accommodate the temporary assignment, travel distance, etc… should be given prior to making these assignments.

3. **Special / Unusual Circumstances Exception.** In order to facilitate the continued and efficient operations of the department during special and/or unusual circumstances that are temporary in nature, the Fire Chief, or his/her designee, maintains the right to make temporary personnel assignments for the needs of the service that may go beyond the stated parameters of this Article. Such a deviation may occur if the Chief determines the needs of the service will suffer adversely. Any such determination shall not be arbitrarily or capriciously made. If requested in writing by the person required to work out of class under this exception and/or the person denied working out of class under this exception, the Chief or his/her designee will put in writing what constituted the special / unusual circumstances.

13.8. Physical Fitness Committee. The Local and the City agree to form a Physical Fitness Committee. The committee will be made up of six (6) members: three (3) members appointed by the Fire Chief and three (3) members appointed by the Union President. Union appointees shall be made be made up of one (1) member from each shift. The committee will meet at a minimum of once per quarter. The purpose of the committee is to make recommendations to the Fire Chief concerning the purchase of physical fitness equipment. In order to fund said equipment, the City agrees to allocate seven thousand five hundred dollars ($7,500.00) during the first month of each fiscal year. All fitness equipment shall be for use within the Lawton Fire Department. Purchases from said funding will be made based on the

recommendations of the Physical Fitness Committee. All equipment purchased shall be considered as city property. Funding must be spent in the fiscal year for which the funding is allocated or said funding will revert back to the City's general fund.

13.9. Emergency Medical Training / Incentive Program.

Training

A. For members employed with the Lawton Fire Department prior to July 1, 2015, the City may make advanced emergency medical training available as a voluntary class with class scheduling to be determined by the City. This training will be approved via the OSDH and will include the following:

1. Advanced EMT training

Due to space limitations within these classes, LFD personnel interested in attending said training will be required to submit an application for review and consideration in order to be considered for acceptance into the class. The City shall have the discretion to limit the number of participants to no more than five (5) individuals per shift per class. For those selected to participate in the class, **attendance shall be voluntary.** If the class occurs during a time when a selected member is on duty, the LFD will take reasonable steps to try to accommodate the member attending the class – subject to the overall needs of the service. If the class is offered during a time the member is off duty, the member's attendance shall be voluntary and without compensation. No member participating in one of these voluntary classes shall be subject to discipline for failing to attend such a class or failing to pass certification.

B. Advanced EMT training/certification will be mandatory for all personnel hired after July 1, 2015. Advanced EMT training will be incorporated into the basic academy. Failure to attend any such class and/or complete certification [for any new hire who does not already have the certification] may lead to

B. disciplinary action, up to an including a probationary release/termination. Members who fail to acquire the required certification by the end of their initial new hire probationary period may have their probationary period extended for up to one (1) additional year for purposes of allowing additional time to acquire the Advanced EMT Certification. An extension of a member's probationary period shall be at the discretion of the Fire Chief.

C. City may make paramedic medical training available as a voluntary class to members of the Lawton Fire Department with class scheduling to be determined by the City. Said training will be approved via the OSDH. Due to space limitations within these classes, LFD personnel interested in attending said training will be required to submit an application for review and consideration in order to be considered for acceptance into the class. The City shall have the discretion to limit the number of participants to no more than five (5) individuals per shift per class. For those selected to participate in the class, **attendance shall be voluntary.** If the class occurs during a time when a selected member is on duty, the LFD will take reasonable steps to try to accommodate the member attending the class – subject to the overall needs of the service. If the class is offered during a time the member is off duty, the member's attendance shall be voluntary and without compensation. No member participating in one of these voluntary classes shall be subject to discipline for failing to attend such a class or failing to pass certification.

Monetary Incentive

Note: Incentive pay will not be retroactive to July 1. The EMS related incentive program will commence the pay period beginning December 21, 2015. Subject to the limitations set forth below, EMS related incentives will become available after the program's effective date. Qualifying individuals for the Advanced EMT Base incentive or Paramedic Base Incentive will not begin receiving an incentive until they have provided

proof of licensure/certification to the Fire Chief's Office and have been approved by the Fire Chief as set forth below. A member cannot receive both an Advanced EMT incentive (of any kind) and a Paramedic incentive at the same time. Again, all incentives shall be prospective in nature, not retroactive.

A. **Advanced EMT Base Incentive.** The City will provide a base monetary incentive as follows for personnel working for the LFD prior to July 1, 2015 who complete the training and certification requirement for Advanced EMT so long as they maintain their certification:

Advanced EMT = $0.50/hour*

Personnel must provide proof of licensure/certification to the Fire Chief's Office for consideration and approval as a prerequisite to receiving the incentive. The incentive pay, upon approval of the Fire Chief, will become effective beginning the first pay period following the member's presentation of the licensure/certification credentials to the Fire Chief. Should a member receiving the incentive lose licensure/certification, he/she shall immediately notify the Fire Chief.

* This base incentive shall only be available to personnel hired prior to July 1, 2015. Personnel hired prior to July 1, 2015 shall be allowed until December 30, 2018 to complete their certification as an Advanced EMT in order to be eligible for the Advanced EMT incentive.

B. **Paramedic Base Incentive.** The City will provide personnel who acquire paramedic licensure/certification a base pay incentive in accordance with the rank classification schedule found in Addendum A of this CBA so long as they maintain their license/certification. Personnel must provide proof of licensure/certification to the Fire Chief's Office for consideration and approval as a prerequisite to receiving the incentive. The incentive pay, upon

approval of the Fire Chief, will become effective beginning the first pay period following the member's presentation of the licensure/certification credentials to the Fire Chief. Should a member receiving the incentive lose licensure/certification, he/she shall immediately notify the Fire Chief.

C. **EMS Service Incentives.** Should the City acquire a transport unit (i.e. an ambulance unit or units), members with the certifications listed below will receive an additional monetary incentive for each hour they are assigned to those respective units. These service incentives will be independent of the base incentives listed above for Advanced EMT and Paramedic, and will therefore be allowed to "stack" onto the base incentive. The service incentives will be as follows:

Advanced EMT Service Incentive = $0.25/hr
Paramedic Service Incentive = $0.50/hr

1. NOTE: Personnel who acquire Advanced EMT certification outside of the eligible timeframe for earning the base Advanced EMT incentive will still be eligible to receive the Advanced EMT service incentive regardless of when they acquire their certification.

2. FURTHER NOTE: Regarding the stacking of incentives: the Advanced EMT Service incentive may be stacked upon the Advanced EMT Base incentive. Likewise, Paramedic Service incentive may be stacked upon the Paramedic grade referenced in the Addendum A rank structure. However, a member cannot receive both an Advanced EMT incentive (of any kind) and a Paramedic incentive at the same time.

D. **EMS Instructor Incentives.** The City will make available two different EMS Instructor Incentives (i.e. Staff EMS Instructor and Operations EMS

Instructor). These incentives will be available for up to eight (8) members of the bargaining unit and will be limited to the following restrictions:

1. **Staff EMS Instructors** will be limited to no more than two (2) personnel. Staff EMS Instructors will be assigned to the Training Division. The monetary incentive for being a Staff EMS Instructor will be as follows:

   Staff EMS Instructor Incentive = $0.50/hr

2. **Operations EMS Instructors** will be limited to no more than six (6) personnel. These personnel will be assigned to the Operations Division with no more than two (2) personnel on each of the Division's three shifts. The monetary incentive for being an Operations EMS Instructor will be as follows:

   Operations EMS Instructor Incentive = $0.25/hr

3. To be eligible for the above-referenced EMS Instructor Incentives members must be licensed/certified as Paramedics with instructor credentials. Members receiving the EMS Instructor Incentive shall be required to teach both Advanced EMT and Paramedic classes and/or skills on their respective shift per the direction of the Fire Chief.

4. The Instructor incentive will be independent of both the base incentive and service incentive listed above for Paramedic. Individuals who are selected to be instructors will be allowed to stack their instructor incentive upon their base paramedic incentive. Additionally, for the time they spend assigned to an ambulance, they will be able to stack their instructor incentive upon their paramedic service incentive. An individual will not be allowed to receive both a Staff EMS Instructor

Incentive and an Operations EMS Instructor Incentive at the same time.

5. Prior to the implementation of the EMS Instructor Incentives the City and the Union will work together through the Liaison Committee to create an EMS Instructor Policy to set forth the parameters of the EMS Instructor Program. Such issues to be resolved through the committee include but are not necessarily limited to: (1) the process that shall be used to select the EMS Instructors, (2) the specific duties to be required of the EMS Instructors, (3) the duration of an individual's designation as EMS Instructor, and (4) the criteria for canceling an individual's EMS Instructor designation and incentive. The committee shall have no authority to alter or add additional compensation for the EMS Instructors, nor shall the committee have the ability to alter any of the parameters set forth in this Article. The CBA will control over any conflict between it and the EMS Instructor Policy. Except as set forth hereinafter, the EMS Instructor Incentives will not go into effect until after the EMS Instructor Policy is created. Once these incentives go into effect, they will be prospective in nature, not retroactive. While the EMS Instructor Policy is under development, the City will be allowed to designate up to two individuals from the training division as Staff EMS Instructors. These individuals so designated will be allowed to begin receiving the Staff EMS Instructor Incentive while the EMS Instructor Policy is under development.

13.10. Public Safety Sales Tax Incentive.

A. For FY-15-16, all members of the bargaining unit employed with the City as of July 1, 2015 who are still employed with the City as of May 1, 2016 will receive a one-time incentive in the amount of two-thousand five hundred dollars ($2,500.00),

subject to taxes and other withholdings, payable on or before May 31, 2016 – subject to the following condition. Members receiving a "bump up" in their pay as a result of the implementation of the second pay chart in FY-15-16 (tentatively identified as the December 21, 2015 pay chart) shall have their incentive adjusted as follows:

1. A member in Grade 10, Step A of the first FY-15-16 pay chart [aka the July 1, 2015 pay chart] will remain in Grade 10, Step A of the second FY-15-16 pay chart [aka the pay chart tentatively identified as the December 21, 2015 pay chart], but will receive a bump up in pay. As a result of the bump up in pay this member's public safety sales tax incentive will be $665.44, less applicable taxes and other withholdings.

2. A member in Grade 10, Step B of the first FY-15-16 pay chart [aka the July 1, 2015 pay chart] will be moved to Grade 10, Step A of the second FY-15-16 pay chart [aka the pay chart tentatively identified as the December 21, 2015 pay chart], and will receive a bump up in pay. As a result of the bump up in pay this member's public safety sales tax incentive will be $1,559.20, less applicable taxes and other withholdings.

B. For FY-16-17, all non-probationary members employed with the City as of July 1, 2016 who are still employed with the City as of May 1, 2017 will receive a one-time incentive in the amount of two-thousand five hundred dollars ($2,500.00), payable on or before May 31, 2017, less applicable taxes and other withholdings.

13.11. 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 or an Advanced EMT, as differentiated within this article and/or unless specifically exempted by this agreement. 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. Beginning in January 2011 and each January of each year thereafter, the City shall provide a payment to all personnel who maintain EMT certification for an amount equal to half the re-registration fee for the costs of the bi-annual renewal of the State and National EMT certifications. The City shall pay for all required refresher courses for EMT-B. Any Firefighter hired between July 1, 2004 and June 30, 2015 shall obtain EMT-B certification during their probationary period if not obtained and submitted to the City prior to their hire date. Any firefighter hired on or after July 1, 2015 shall obtain Advance EMT during their probationary period if not obtained and submitted to the City prior to their hire date. All staff officers (i.e. Fire Prevention Personnel and Assistant Chiefs) with the exception of Training Division personnel shall be exempt from said Emergency Medical Technician training requirement. However, staff officers within the Fire Prevention Division are required to obtain their EMT certification prior to being allowed to return to shift.

The City shall provide a minimum of two OSDH approved EMT refresher courses per year for the purpose of providing required EMT continuing education. Any Firefighter who loses their required EMT certification status shall be placed in a temporary probationary status for a period of one (1) year pending recertification at the required EMT level.

However, any member who loses their EMT 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 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. Upon recertification at the required EMT level 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. If at the end of the six (6) month extension of the temporary probationary period the member still has not received his/her required EMT recertification, the member will be subject to the disciplinary process for failure to obtain said certification. Said discipline shall include up to termination.

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 in accordance with the Fire Department Leave Policy subject to the following:

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 Lawton Fire Department leave policy.

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. The maximum number of vacation credits at the beginning of the first full pay period in January of any year shall not exceed the following: 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 four (4) 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. Members who schedule a floating holiday after April 15th understand that the scheduled holiday time will not be eligible for compensation should they choose to cancel the scheduled leave; this cancelation restriction shall not apply to members unable to use their floating holiday due to being on on-duty injury leave. Compensation for unused floating holiday time shall be based on twenty-two

(22) 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 four (4) 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 two (2) full floating holidays. If a shift member retires during the second six (6) months of a fiscal year, he shall receive four (4) 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 Article 15.6.

15.6. Use of Sick Leave.

A. **Types of Sick Leave.**

Authorized sick leave is defined in three areas: ordinary, on-the-job injury, and emergency. Bona fide use of authorized sick leave shall not be used to detrimentally affect the members.

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

a. 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.

b. 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.

c. 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.

d. 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.

e. 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.

f. 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.

2. On-the-Job Injury.

a. 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.

b. In addition, during the above period, Worker's Compensation total temporary disability 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 earnings, excluding overtime.

c. 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.

d. 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.

3. Emergency Leave.

Emergency leave may be requested to deal with the effects of unusual or unplanned circumstances that may require a member to be absent for duty.

a. Each shift member shall be allowed up to forty eight (48) hours of emergency leave per contract year. Said leave may be used in any combination for up to two (2) instances during the contract year. Additional instances may be granted at the discretion of the Fire Chief.

b. Each staff member shall be allowed up to sixteen (16) hours of emergency leave per contract year. Said leave may be used in any combination for up to two (2) instances during the contract year. Additional instances may be granted at the discretion of the Fire Chief.

Note: Emergencies shall be defined as a sudden, urgent, usually unexpected occurrence or occasion requiring immediate action and/or a situation that has a high probability of escalating to cause immediate danger to life, health, or property.

B. 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.

C. 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.

D. Intemperate Habits.

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

E. 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. **Staff Division**

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. **Shift Division**

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.

F. 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.

G. Compensation for Sick Leave Upon Termination.

A member, upon termination, shall not be paid for any unused sick leave hours accrued.

H. 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.

I. 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.

Exception: Members called back to active duty for deployment in excess of thirty (30) days shall be excluded from the minimum number of available leave positions under the provisions outlined in Article 13.5 and the Lawton Fire Department Leave Policy.

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 twelve (12) official delegates selected from the membership of the Union (with a maximum of four (4) per shift), for up to three (3) calendar days, for said members to attend the annual convention of the Professional Firefighters of Oklahoma and up to twelve (12) delegates (with a maximum of four (4) per shift) for the Oklahoma State Firefighter's Association annual convention for up to four (4) calendar days. 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.** Paid bereavement leave shall be granted for the

reasons of the death of a member of the employee's immediate family (by blood or marriage), i.e. grandparents, grandchildren, parents, sisters, brothers, sons, daughters, step-children, spouse and in-laws: spouse's grandparents, mother-in-law, father-in-law, son-in-law, daughter-in-law, sister-in-law, and brother-in-law, as well as other relatives permanently residing in the employee's household.

1. Shift: Maximum absence allowed under bereavement leave at any one time shall be forty eight (48) hours, and only ninety six (96) hours per calendar year.

2. Staff: Maximum absence allowed under bereavement leave at any one time shall be twenty-four (24) hours, and only forty-eight (48) hours per calendar year.

If the member of the employee's immediate family funeral is beyond a five hundred (500) mile radius of the City of Lawton, the employee will be allowed up to three (3) additional calendar days by using leave time from their leave balance(s) (sick, vacation, flex, or compensatory) for the purpose of travel.

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. Purpose:

The City and Union understand that during the term of this Agreement various issues of mutual concern may occur and that it would be helpful for the parties to have a mechanism to discuss those issues. Consequently, the City and Union agree to form a liaison committee. The purpose of the Committee shall be to facilitate improved Labor-Management relationships and encourage communication between the parties by providing a forum for the free discussion of matters of mutual concern, including but not limited to: pending and potential grievances; procedures for avoiding future grievances; programs or policies for improved efficiency, effectiveness, and productivity; health and safety issues; and other issues which would serve to improve the relationship between the parties.

17.2. Members of Committee:

The make up of the liaison committee shall be as follows. For the City its members shall be: the Fire Chief or his/her designee and up to five other representatives to be determined by the City. For the Union its members shall be: Local 1882's President or his/her designee and up to five other representatives to be determined by the Union. Either party may substitute their five non-named representatives with other individuals at any time.

17.3. Agenda and Scheduling:

a. Prior to any meeting of the committee, each party shall provide notice to the other party of the issues to be discussed at said meeting. The committee agenda shall be jointly agreed upon in writing by both the City and Union. The agenda shall include the name of the members who will attend. Notification of any changes to the attendee list shall be made as soon as practical.

b. Coordination for the scheduling of a liaison committee meeting shall be done by the Fire Chief and Local 1882's President, or either of their designees. Meetings shall be upon

the written request of either party on dates agreeable to both parties, provided said committee will not be required to meet and confer more than once in any ninety (90) day period. It may, however, if both parties are agreeable, meet more frequently. Meetings shall be at a time and place mutually agreed upon by both parties. Meetings shall not be more than three hours in length unless mutually agreed to by both parties.

17.4. Authority of Committee:

The committee shall have the authority to make recommendations to the Union and City for their consideration and determination. It is understood that liaison committee meetings shall not be used as a forum to renegotiate/re-open this Agreement. It is understood by the parties that the benefits granted by this article shall in no way be construed as binding on either party. In addition, the parties recognize and acknowledge that their participation in the liaison committee process does not forfeit any rights afforded to them by statute and/or the collective bargaining agreement. Neither side shall be compelled to make a concession during the liaison meeting. Any agreement reached by this committee shall be documented and subject to the approval by the appropriate governing official(s) from both parties in the appropriate manner.

17.5 Compensation:

a. On-duty representatives of the Union: Member representatives of the Bargaining Agent who are on duty at the time of committee meetings will be compensated as if on duty for time actually spent in the meetings. Attendance will be allowed unless such attendance may impede the operation of the Lawton Fire Department. For the purpose of computing overtime, time spent in liaison committee meetings shall be considered as hours worked to the extent of the regular work schedule hours which they otherwise would have worked.

b. Off-duty representatives of the Union: Member representatives of the Bargaining Agent who are off duty at the time of committee meetings shall be given compensatory time. The total amount given shall not exceed an annual total of 320 hours in the fiscal year for the time actually spent in these liaison committee meetings. No individual shall receive more than eighty (80) hours of compensatory time in one fiscal year. Such compensatory time shall be

equal to the amount of time actually spent in the meeting. A Union committee member participating in liaison committee meetings who is in an off-duty status at the time the meeting is held will be compensated at straight time and said time shall not be applied toward FLSA overtime.

17.6 Other:

a. Nothing contained within this Article shall preclude any other type of communication that may occur from time to time between the City and the Union.

b. Meetings shall be closed unless mutually agreed to by the parties.

c. Members of a liaison committee meeting shall maintain confidentiality of information discussed about personnel issues, especially those related to discipline or health/medical information, within the scope of their City job classification or duties on the executive or grievance board of the Union.

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, 2015 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 17-1-7-171(B), the reference to thirty (30) working days to impose discipline shall be excluded from this contract and substituted with thirty (30) calendar days. All other provisions of Section 17-1-7-171(B) will remain in effect as written.

d. In Section 17-1-6-163 Paragraph (D) (Ordinary Sick Leave), shall be excluded;

e. In Section 17-1-6-163 Paragraph (E) (On the Job Injury Leave), The term ninety (90) days in subsection (1) and (4) shall be replaced with "26 weeks". Additionally in 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.";

f. In Section 17-1-6-163 Paragraph (E) (On the Job Injury Leave), subsection (6 b) is excluded(the parties agree to refer the issue of a Light Duty Policy to the Liaison Committee for development.) Subsection 8) is also excluded.

g. Section 17-1-6-168 (Administrative Leave without pay) is excluded except as it may pertain to a pending felony charge (i.e. a charge that has actually been filed in court) of murder, attempted murder, rape, attempted rape, child molestation, assault with a deadly weapon, robbery, theft (including embezzlement), burglary, or arson. Also exempted from the above exclusion is any charge filed in court involving either:

1. A misdemeanor or felony charge for:

a. the illegal possession of a controlled substance,

b. the illegal manufacturing and/or trafficking of a controlled substance,

c. driving while under the influence of drugs or a controlled substance,

d. being in actual physical control of a vehicle while under the influence of drugs or a controlled substance.

2. A felony charge for:

a. driving while under the influence of alcohol,

b. being in actual physical control of a vehicle while under the influence of alcohol.

h. Division 17-3-4 (Regular Employee Retirement System) is excluded in its entirety;

i. Section 17-2-11-243 (Furlough) is excluded from this agreement;

j Section 17-1-4-140 (Pay for working out of classification) is excluded from this agreement.

20.8. Tobacco & Vapor Free Ordinance. The Union agrees to abide by all provisions of City Ordinance 14-31.

20.9. The Union and the City agree that the policy attached as Addendum D shall be the promotional system used in FY-16-17 and thereafter. Testing under the new promotional policy shall be in the fall of 2016 with any applicable promotional list/s to be effective January 2017. Should the City not fund FY-16-17 of this contract this provision shall have no force or effect.

EXECUTION PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 24th day of November, 2015, on which date said Agreement was adopted and approved by the City Council of the City of Lawton.

CITY OF LAWTON, OKLAHOMA

By: _____
FRED L. FITCH, 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 24th day of November, 2015.

_____
FRANK V. JENSEN
City Attorney

2015-2017 Bargaining Members

For the City	For the Union
Tim Wilson	Bruce Kizarr
Bart Hadley	Jason Davis
Raanon Adams	Bryon Kizarr
Jim Russell	Josh Hall
Dewayne Burk	Mike Clark
Kelea Fisher	

ADDENDUM A
WAGES

1. An entry-level employee classified as a "Probationary Firefighter" shall be placed in Pay Grade 10, Step A. An entry-level employee classified as a "Probationary Firefighter Paramedic" shall be placed in Pay Grade 12, 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 twelve (12) months in Pay Grade 10, Step A, or twelve (12) months in Pay Grade 12, Step A for a Firefighter Paramedic; and a satisfactory rating by the firefighter's supervisors and the Fire Chief, the Probationary Firefighter will be reclassified as a Firefighter or Firefighter Paramedic, or terminated for unsatisfactory performance. Once a "Probationary Firefighter" has been re-classified as a "Firefighter", he/she shall be placed in either Pay Grade 10, Step B or Pay Grade 12, Step B for firefighters with Paramedic Licensure (as appropriate) with all the rights and privileges afforded by this Agreement.

2. Except as provided in the above paragraph (paragraph 1) of this Addendum and the "Note" paragraph below, members shall receive wages according to their positions as reflected by schedule below. Reviews for merit step increases shall be conducted after serving one (1) year in Step A, one (1) year in Step B, one (1) year in Step C, one (1) year in Step D, one (1) year in Step E, one (1) year in Step F, one (1) year in Step G, and two (2) years in Step H to be eligible for Step I. 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 in the same step. Promotions to the next higher position will reset the date for eligibility for merit increases to the day of the promotion. Exceptions to this

will be for the intermediate ranks (Corporal & Sergeant), and any time requirements for a two-year merit increase. Regarding the new Paramedic Base Incnetive (aka paramedic pay grade incentive), the gaining or losing of this incentive by a member shall not affect the member's anniversary/step date. However, as set forth below, merit/step increases are suspended for Fiscal Year 2015-2016.

NOTE: For Fiscal Year 2015-2016, i.e. from July 1, 2015 through June 30, 2016, the annual merit/step increase for eligible bargaining unit members shall be suspended. No member of the bargaining unit will receive a merit/step increase during this period. Additionally, none of the time worked during Fiscal Year 2015-2016 will count toward merit/step increases – except members will be allowed to count the time they spent in the old J Step during FY-15-16 and/or - after the second FY-15-16 pay chart goes into effect - the time spent in the new H Step during FY-15-16 toward the two-year requirement needed prior to advancing into the new I Step. Note: the previously mentioned exception will not entitle any member to a step/merit increase in FY-15-16 (i.e. if a member had already been in the old J Step for two years prior to FY-15-16, the ability to count FY-15-16 toward the two-year requirement will not entitle a member to a step/merit increase in FY-15-16). For FY-16-17, if a member can show that they have meet the time requirements in old J Step and new H Step, then on their annual evaluation date (aka anniversary/step date) they will be eligible for a merit increase to the new I step, provided they receive an overall "standard" or above on their evaluation.

Merit/step increases for eligible bargaining unit members will resume in Fiscal Year 2016-2017. Bargaining unit members otherwise eligible for a merit/step increase will receive their next merit/step increase on their regular step date in Fiscal Year 2016-2017, i.e. their next step date on or after July 1, 2016. However, once merit/step increases resume in Fiscal Year 2016-2017, eligible bargaining unit members will not be entitled to a double merit/step increase to make up for missing a merit/step increase in Fiscal Year 2015-2016.

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.

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

PERSONNEL	
CLASSIFICATION/RANK	PAY GRADE
OPERATIONS DIVISION	
PROBATIONARY FIREFIGHTER	10A
FIREFIGHTER	10
FIREFIGHTER/PARAMEDIC	12
CORPORAL	10
CORPORAL/PARAMEDIC	12
DRIVER	13
DRIVER/PARAMEDIC	15
SERGEANT	14
SERGEANT/PARAMEDIC	15
LIEUTENANT	17
LIEUTENANT/PARAMEDIC	18
CAPTAIN (SINGLE-COMPANY)	19
CAPTAIN/PARAMEDIC (SINGLE-COMPANY)	20
CAPTAIN (MULTI-COMPANY)	21
CAPTAIN/PARAMEDIC (MULTI-COMPANY)	22
MAJOR	24
ASSISTANT FIRE CHIEF	27
PREVENTION PERSONNEL	
FIRE INSPECTOR	29
FIRE INVESTIGATOR	29
ASSISTANT FIRE MARSHAL	31
DEPUTY FIRE MARSHAL	34
FIRE MARSHAL	39
TRAINING PERSONNEL	
*EMS-SAFETY OFFICER	29
ASSISTANT TRAINING OFFICER	31
ASSISTANT TRAINING OFFICER/PARAMEDIC	32
DEPUTY TRAINING OFFICER	34
DEPUTY TRAINING OFFICER/PARAMEDIC	35
TRAINING OFFICER	39

* 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.

Note: FY-15-16 involves the creation of a new pay chart near the midpoint of the fiscal year. The new pay chart removes some of the lower steps and renumbers the others. The result being that the new pay chart will go from Steps A though I. The new pay chart also bumps up the starting hourly rate for new hires to $12.55. Some members will see

Note: FY-15-16 involves the creation of a new pay chart near the midpoint of the fiscal year. The new pay chart removes some of the lower steps and renumbers the others. The result being that the new pay chart will go from Steps A though I. The new pay chart also bumps up the starting hourly rate for new hires to $12.55. Some members will see a bump up in pay as a result of this adjustment. Specifically:

1. A member in Grade 10, Step A of the first FY-15-16 pay chart [aka the July 1, 2015 pay chart] will remain in Grade 10, Step A of the second FY-15-16 pay chart [aka the pay chart tentatively identified as the December 21, 2015 pay chart], but will receive a bump up in pay.

2. A member in Grade 10, Step B of the first FY-15-16 pay chart [aka the July 1, 2015 pay chart] will be moved to Grade 10, Step A of the second FY-15-16 pay chart [aka the pay chart tentatively identified as the December 21, 2015 pay chart], and will receive a bump up in pay.

All other members will remain in the same Grade and go from their Step in the old pay chart to the Step in the new pay chart that is of the same dollar value. For example, a member in Grade 10 Step K of the old pay chart at ($17.71) will in the new pay chart be in Grade 10 Step I at ($17.71).

CITY OF LAWTON FIRE SALARY SCHEDULE AS OF JULY 1. 2015 THROUGH DECEMBER 20. 2015

GRADE	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	STEP H	STEP I	STEP J	STEP K
1	9.14	9.59	10.07	10.56	11.09	11.65	12.24	12.84	13.50	13.83	14.18
2	9.35	9.82	10.32	10.83	11.37	11.94	12.54	13.17	13.83	14.18	14.53
3	9.58	10.06	10.55	11.08	11.64	12.22	12.83	13.50	14.18	14.53	14.89
4	9.83	10.33	10.84	11.38	11.95	12.55	13.17	13.82	14.54	14.90	15.27
5	10.06	10.55	11.08	11.64	12.23	12.83	13.48	14.18	14.88	15.25	15.64
6	10.33	10.83	11.37	11.94	12.54	13.14	13.80	14.54	15.27	15.66	16.05
7	10.55	11.09	11.64	12.23	12.83	13.48	14.15	14.89	15.65	16.04	16.44
8	10.84	11.39	11.95	12.56	13.17	13.82	14.53	15.26	16.05	16.44	16.85
9	11.09	11.65	12.23	12.84	13.48	14.16	14.86	15.66	16.46	16.87	17.29
10	11.38	11.95	12.55	13.15	13.81	14.52	15.24	16.05	16.85	17.27	17.71
11	11.65	12.24	12.84	13.49	14.16	14.86	15.61	16.46	17.29	17.73	18.17
12	11.95	12.55	13.15	13.81	14.52	15.24	16.00	16.87	17.72	18.16	18.61
13	12.24	12.84	13.49	14.16	14.86	15.61	16.40	17.28	18.17	18.62	19.09
14	12.56	13.17	13.82	14.53	15.25	16.01	16.82	17.72	18.60	19.08	19.55
15	12.83	13.46	14.15	14.85	15.60	16.38	17.19	18.16	19.07	19.55	20.03
16	13.15	13.81	14.51	15.23	15.99	16.79	17.63	18.60	19.55	20.04	20.55
17	13.49	14.16	14.86	15.61	16.40	17.21	18.07	19.08	20.04	20.55	21.06
18	13.81	14.51	15.23	15.99	16.79	17.63	18.52	19.55	20.54	21.05	21.58
19	14.16	14.86	15.61	16.40	17.20	18.07	18.97	20.04	21.05	21.58	22.11
20	14.52	15.23	16.00	16.81	17.64	18.52	19.45	20.54	21.58	22.11	22.67
21	14.86	15.61	16.40	17.20	18.07	18.97	19.93	21.05	22.12	22.68	23.25
22	15.24	16.01	16.82	17.66	18.53	19.46	20.45	21.57	22.68	23.25	23.82
23	15.61	16.40	17.21	18.07	18.99	19.94	20.92	22.12	23.24	23.82	24.42
24	16.03	16.82	17.66	18.54	19.47	20.46	21.48	22.68	23.82	24.42	25.03
25	16.42	17.21	18.08	18.99	19.94	20.93	21.98	23.25	24.41	25.03	25.66
26	16.81	17.64	18.53	19.46	20.42	21.44	22.52	23.81	25.03	25.65	26.29
27	17.20	18.07	18.97	19.93	20.92	21.97	23.07	24.41	25.66	26.30	26.96
28	17.67	18.54	19.48	20.46	21.48	22.56	23.69	25.02	26.31	26.97	27.63
29	18.07	18.97	19.93	20.92	21.97	23.07	24.23	25.67	26.96	27.63	28.33
30	18.51	19.45	20.41	21.43	22.51	23.66	24.82	26.30	27.62	28.31	29.03
31	18.97	19.93	20.92	21.96	23.07	24.22	25.43	26.96	28.34	29.05	29.78
32	19.45	20.42	21.44	22.52	23.67	24.83	26.08	27.63	29.03	29.76	30.50
33	19.95	20.94	21.99	23.09	24.25	25.48	26.73	28.34	29.78	30.52	31.28
34	20.46	21.45	22.54	23.68	24.84	26.09	27.40	29.03	30.50	31.26	32.04
35	20.95	22.00	23.11	24.27	25.49	26.75	28.11	29.77	31.27	32.04	32.85
36	21.49	22.56	23.70	24.86	26.11	27.42	28.79	30.50	32.04	32.85	33.67
37	22.01	23.11	24.27	25.49	26.75	28.11	29.50	31.27	32.84	33.65	34.49
38	22.57	23.71	24.87	26.12	27.44	28.81	30.25	32.04	33.67	34.52	35.38
39	23.12	24.28	25.51	26.76	28.12	29.52	30.99	32.84	34.52	35.37	36.26
40	23.71	24.87	26.12	27.44	28.81	30.24	31.77	33.66	35.35	36.24	37.14
41	24.30	25.53	26.78	28.14	29.55	31.01	32.58	34.52	36.26	37.16	38.09
42	24.91	26.16	27.46	28.85	30.30	31.81	33.39	35.36	37.16	38.09	39.04
43	25.54	26.79	28.16	29.56	31.03	32.59	34.22	36.26	38.07	39.03	40.01
44	26.17	27.47	28.86	30.30	31.82	33.40	35.06	37.15	39.04	40.02	41.01
45	26.81	28.16	29.56	31.04	32.59	34.22	35.94	38.10	40.02	41.01	42.04
46	27.47	28.86	30.30	31.81	33.40	35.06	36.81	39.04	41.01	42.04	43.10
47	28.18	29.59	31.06	32.63	34.25	35.97	37.77	40.02	42.04	43.10	44.18
48	28.88	30.33	31.84	33.43	35.09	36.85	38.70	41.01	43.10	44.18	45.28
49	29.59	31.08	32.65	34.26	35.99	37.79	39.67	42.03	44.17	45.27	46.40
50	30.35	31.86	33.45	35.13	36.88	38.74	40.65	43.10	45.28	46.41	47.58

CITY OF LAWTON FIRE SALARY SCHEDULE AS OF DECEMBER 21, 2015 THROUGH JUNE 30, 2017

GRADE	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	STEP H	STEP I
1	10.07	10.56	11.09	11.65	12.24	12.84	13.50	13.83	14.18
2	10.32	10.83	11.37	11.94	12.54	13.17	13.83	14.18	14.53
3	10.55	11.08	11.64	12.22	12.83	13.50	14.18	14.53	14.89
4	10.84	11.38	11.95	12.55	13.17	13.82	14.54	14.90	15.27
5	11.08	11.64	12.23	12.83	13.48	14.18	14.88	15.25	15.64
6	11.37	11.94	12.54	13.14	13.80	14.54	15.27	15.66	16.05
7	11.64	12.23	12.83	13.48	14.15	14.89	15.65	16.04	16.44
8	11.95	12.56	13.17	13.82	14.53	15.26	16.05	16.44	16.85
9	12.23	12.84	13.48	14.16	14.86	15.66	16.46	16.87	17.29
10	12.55	13.15	13.81	14.52	15.24	16.05	16.85	17.27	17.71
11	12.84	13.49	14.16	14.86	15.61	16.46	17.29	17.73	18.17
12	13.15	13.81	14.52	15.24	16.00	16.87	17.72	18.16	18.61
13	13.49	14.16	14.86	15.61	16.40	17.28	18.17	18.62	19.09
14	13.82	14.53	15.25	16.01	16.82	17.72	18.60	19.08	19.55
15	14.15	14.85	15.60	16.38	17.19	18.16	19.07	19.55	20.03
16	14.51	15.23	15.99	16.79	17.63	18.60	19.55	20.04	20.55
17	14.86	15.61	16.40	17.21	18.07	19.08	20.04	20.55	21.06
18	15.23	15.99	16.79	17.63	18.52	19.55	20.54	21.05	21.58
19	15.61	16.40	17.20	18.07	18.97	20.04	21.05	21.58	22.11
20	16.00	16.81	17.64	18.52	19.45	20.54	21.58	22.11	22.67
21	16.40	17.20	18.07	18.97	19.93	21.05	22.12	22.68	23.25
22	16.82	17.66	18.53	19.46	20.45	21.57	22.68	23.25	23.82
23	17.21	18.07	18.99	19.94	20.92	22.12	23.24	23.82	24.42
24	17.66	18.54	19.47	20.46	21.48	22.68	23.82	24.42	25.03
25	18.08	18.99	19.94	20.93	21.98	23.25	24.41	25.03	25.66
26	18.53	19.46	20.42	21.44	22.52	23.81	25.03	25.65	26.29
27	18.97	19.93	20.92	21.97	23.07	24.41	25.66	26.30	26.96
28	19.48	20.46	21.48	22.56	23.69	25.02	26.31	26.97	27.63
29	19.93	20.92	21.97	23.07	24.23	25.67	26.96	27.63	28.33
30	20.41	21.43	22.51	23.66	24.82	26.30	27.62	28.31	29.03
31	20.92	21.96	23.07	24.22	25.43	26.96	28.34	29.05	29.78
32	21.44	22.52	23.67	24.83	26.08	27.63	29.03	29.76	30.50
33	21.99	23.09	24.25	25.48	26.73	28.34	29.78	30.52	31.28
34	22.54	23.68	24.84	26.09	27.40	29.03	30.50	31.26	32.04
35	23.11	24.27	25.49	26.75	28.11	29.77	31.27	32.04	32.85
36	23.70	24.86	26.11	27.42	28.79	30.50	32.04	32.85	33.67
37	24.27	25.49	26.75	28.11	29.50	31.27	32.84	33.65	34.49
38	24.87	26.12	27.44	28.81	30.25	32.04	33.67	34.52	35.38
39	25.51	26.76	28.12	29.52	30.99	32.84	34.52	35.37	36.26
40	26.12	27.44	28.81	30.24	31.77	33.66	35.35	36.24	37.14
41	26.78	28.14	29.55	31.01	32.58	34.52	36.26	37.16	38.09
42	27.46	28.85	30.30	31.81	33.39	35.36	37.16	38.09	39.04
43	28.16	29.56	31.03	32.59	34.22	36.26	38.07	39.03	40.01
44	28.86	30.30	31.82	33.40	35.06	37.15	39.04	40.02	41.01
45	29.56	31.04	32.59	34.22	35.94	38.10	40.02	41.01	42.04
46	30.30	31.81	33.40	35.06	36.81	39.04	41.01	42.04	43.10
47	31.06	32.63	34.25	35.97	37.77	40.02	42.04	43.10	44.18
48	31.84	33.43	35.09	36.85	38.70	41.01	43.10	44.18	45.28
49	32.65	34.26	35.99	37.79	39.67	42.03	44.17	45.27	46.40
50	33.45	35.13	36.88	38.74	40.65	43.10	45.28	46.41	47.58

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.

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.

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 (2,080), but shall not include the following:

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

b. Part-time employees.

c. Temporary employees.

d. Unclassified service personnel.

e. Introductory employees.

10."Committee" means the employee advisory committee, and the word shall not be constructed to mean any other board or committee.

11."Continuous service" means service uninterrupted by resignation or discharge, except as provided in Section 17-141 D. of this code.

12."Contract" means any agreement with the city.

13."Cost-of-living increase" is that increase which is granted to regular employees for each position title as approved by the city council.

14."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 (8) if the employee works a normal eight-hour workday period, or multiplied by ten (10) if the employee works a normal ten-hour workday period.

15."Demotion" means the act of reducing an employee to a lower step or grade in the city's classification and pay plan.

16."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.

17."Designated voting group" means a grouping of employee classes into groups for the purpose of selecting representatives to the employee advisory committee.

18."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.

19."Elected official" means the mayor or council member.

20."Employee" means any person receiving a salary from the city whether full-time or part-time, provided is shall not mean any person employed by the city as an independent contractor or elected official.

21."Entrance pay" is the pay during the introductory period, usually the lowest step of the pay grade.

22."Exempt employees" means those employees identified by the human resources director as being exempt under the Fair Labor Standards Act from receiving pay for overtime worked.

23."Fixed holiday" means a holiday observed by all employees, except those necessary to provide emergency services, on a certain designated date.

24."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.

25."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.

26."Full time employee" means an employee who normally works or is scheduled to work two thousand eighty (2,080) hours or more per year.

27."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."

28."Grievance" means a cause for complaint by an employee over matters of pay, benefits or working conditions.

29."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, son-in-law, daughter-in-law, grandchildren and grandparents of the employee only. It shall also include any guardian who raised the employee in the guardian's home.

30."Interest" means any direct or indirect pecuniary or material benefit which a person has or may receive.

31."Interviewing authority" means a division supervisor or department director who will interview job applicants to fill a position vacancy.

32."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 agreement.

33."Introductory period" or "introductory status" means the time, period, status or situation while an employee is employed by the city for less than six (6) months.

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

35."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.

36."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 GE04H position at Step F in the non-union general employee pay chart times the employee's total number of years of continuous service not to exceed twenty-one (21) years.

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

38."Majority" means fifty percent (50%) plus one, of the total members of either the personnel board or the employee advisory committee.

39."Member" means an individual selected to represent one of the positions on the employee advisory committee by a majority vote of the members of the designated voting group or by the alternate methods as explained in these rules; it also means an individual appointed to serve on the personnel board.

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

41."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.

42."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.

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

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

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

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

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

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

49."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.

50."Quorum" means a simple majority of the total members of either the personnel board or of the employee advisory committee.

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

52."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.

53."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.

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

55."Regular part-time employee" means all employees not represented by a bargaining unit who normally work 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.

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

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

58."Series" means two (2) or more classes involving the same occupational field but differing rate.

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

60."Shift employee" means a 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 fifty percent (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.

For purposes of this definition "shift employee" does not include introductory employees or employees who are represented by either the police or fire bargaining units.

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

62."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.

63."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.

64."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.

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

66."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, the city attorney, 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.

67."Work day" means the daily hours or daily period of work which is designed 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. 09-04, Amended, 02/06/2009; Ord. 2007-41, Amended, 07/10/2007)

(Ord. No. 09-04, § 1, 1-27-2009; Ord. No. 11-51, § 1, 11-15-2011; Ord. No. 12-21, § 1, 7-10-2012, eff. 8-9-2012; Ord. No. 2012-25, § 1, 7-24-2012)

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.**

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

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)

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.**

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

The human resources department, under the direction of the city manager, is primarily responsible for recruiting candidates for employment in all departments covered by these rules. The human resources 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, various websites, and all other recruiting activities.

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

(Ord. No. 10-01, § 1, 1-12-2010, eff. 2-1-2010)

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 human resources 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 human resources department promptly when a candidate has/has not been selected as the finalist for the available position. Once the finalist is selected, the prospective employee shall be promptly referred to the human resources department for all required and necessary testing and background checks; and

5. To make sure that departmental divisions post all job announcements sent by the human resources department in places where they may be easily read by division employees.

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

(Ord. No. 10-01, § 2, 1-12-2010, eff. 2-1-2010)

Section 17-1-3-123 - Screening.

A. The human resources 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)

(Ord. No. 10-01, § 3, 1-12-2010, eff. 2-1-2010)

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. The following recruitment guidelines will be followed based on the job family of the class:

1. Executive:

    a. Recruitment—Based on the difficulty in recruiting for these types of positions and the higher level of required qualifications, as determined by the human resources director, in collaboration with the hiring department director and city manager, recruitment may be done locally and statewide. Recruitment with professional organizations may also occur nationally.

    b. Interview Expenses—A limited amount for this classification may be allowed based on the Administrative Policy 3-4 Reimbursement of Interview and Relocation Expenses.

    c. Relocation Expenses—A limited amount for this classification may be allowed based on the Administrative Policy 3-4 Reimbursement of Interview and Relocation Expenses.

2. Mid-Management/Supervisory:

a. Recruitment—Based on the difficulty in recruiting for these types of positions and the higher level of required qualifications, as determined by the human resources director, in collaboration with the hiring department director and city manager, recruitment may be done locally and statewide. Recruitment with professional organizations may also occur nationally. All other positions will be recruited locally and regionally.

b. Interview Expenses—A limited amount for this classification may be allowed based on the Administrative Policy 3-4 Reimbursement of Interview and Relocation Expenses.

c. Relocation Expenses—A limited amount for this classification may be allowed based on the Administrative Policy 3-4 Reimbursement of Interview and Relocation Expenses.

3. Professional/Administrative:

a. Recruitment—Based on the difficulty in recruiting for these types of positions and the higher level of required qualifications, as determined by the human resources director, in collaboration with the hiring department director and city manager, recruitment may be done locally and statewide. Recruitment with professional organizations may also occur nationally. All other positions will be recruited locally and regionally.

b. Interview Expenses—A limited amount for this classification may be allowed based on the Administrative Policy 3-4 Reimbursement of Interview and Relocation Expenses.

c. Relocation Expenses—A limited amount for this classification may be allowed based on the Administrative Policy 3-4 Reimbursement of Interview and Relocation Expenses.

4. Labor/Trades/Technical/Clerical:

a. Recruitment—Recruitment will be done locally. If it is determined that the classification has become difficult to fill based on the availability of a skill set or job requirements, as determined by the human resources department regional recruitment may be used.

b. Interview expenses—None available.

c. Relocation expenses—None available.

5. Police and Fire (Sworn Personnel):

a. Recruitment—Recruitment will be done locally. If it is determined that the classification has become difficult to fill based on the availability of a skill set or job requirements, as determined by the human resources department regional recruitment may be used.

b. Interview expenses—None available.

c. Relocation expenses—None available.

D. For the purposes of this section "local" will mean where the primary source of applicants is Lawton, "Region" will mean Comanche County and its immediate surrounding counties, "Statewide" will mean the State of Oklahoma and "national" will mean the United States.

E. Selections to fill vacant positions shall be made of the best qualified persons in terms of experience, skills, training, education and aptitude. Employment opportunities shall be made available on an equal opportunity basis

to qualified persons without regard to race, color, religion, sex, national origin, veteran status, disabilities, or age. The city's policy is to hire the best-qualified applicant for every city job, typically through a process open to all members of the public. Limitations of recruitment apply only to the expenses incurred for things such as advertising, posting, job fairs, etc.

F. 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.

G. 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 any other 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.

H. The human resources director shall post open positions. The department director may indicate external sources he wishes to be considered for posting in accordance with subsection C. above.

I. The human resources director shall certify the most qualified of those candidates who meet the minimum qualifications of the position being advertised.

J. If a vacancy occurs in the same classification within sixty (60) days of a vacancy closing, the candidate pool for the initial vacancy listing can be used to fill the additional vacancy.

K. 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.

L. In the event the chosen candidate has the conditional job offer rescinded, the original candidate pool may be utilized for selection of another candidate.

M. 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)
(Ord. No. 09-28, § 1, 8-25-2009; Ord. No. 10-01, § 4, 1-12-2010, eff. 2-1-2010)

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

A. The human resources 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 will be conducted in accordance with Administrative Policy 3-5 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 human resources 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)

(Ord. No. 10-01, § 5, 1-12-2010, eff. 2-1-2010)

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 (6) 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 for a period of five (5) years from their termination date:

1. Employees whose separation from service was due to unsatisfactory job performance;
2. Employees involuntarily terminated for work rule violations (disciplinary reasons including but not limited to positive drug or alcohol test, illegal activities, violence in the workplace, illegal harassment, negligence resulting in personal injury and/or substantial monetary loss.);
3. Employees who provided less than two (2) weeks' notice before the effective date of their separation from service, or did not complete the notice period. Using approved leave shall constitute completion of the notice period. However, unapproved leave or disciplinary suspension during the notice period shall be considered an incomplete notice period.

B. The human resources director or designee 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 prior to the start of employment.

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)

(Ord. No. 09-25, § 1, 8-11-2009)

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.

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 then 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 (3) referenced colleges.

b. Graduate courses: Average credit hour amount based on graduate school rates for a MS in Management at the three (3) referenced colleges.

c. MBA courses: Average credit hour amount based on an MBA from the three (3) referenced colleges.

d. Other specialized courses not listed as an exception in Section B.3. or Section E.4. 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 (3) to five (5) 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 (6) college hours and two (2) 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.

G. Employee advisory committee.

1. The employee advisory committee shall:

a. Recommend guidelines to the human resources director and the city manager for programs and courses covered by this program.

b. Serve as an appeal committee for educational assistance incentive applications which have been denied by the human resources director and make recommendations concerning such appeals to the city manager who shall have final authority to approve or deny an application.

c. To provide advice and recommendation to the human resources director and city manager about educational incentive programs for eligible city employees.

d. To periodically review the performance of the educational incentive program and recommend any needed changes through the human resources director to the city manager.

(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)

(Ord. No. 11-51, § 2, 11-15-2011)

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.

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 one (1) through four (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 five (5) through eight (8) years of service: Vacation shall accrue at the rate of 3.8462 hours per biweekly payroll period with a total of one hundred (100) hours per year;
4. For nine (9) through twelve (12) years of service: Vacation shall accrue at the rate of 4.6154 hours per biweekly payroll period with a total of one hundred twenty (120) hours per year;
5. For thirteen (13) through sixteen (16) years of service: Vacation shall accrue at the rate of 5.3846 hours per biweekly payroll period with a total of one hundred forty (140) hours per year;
6. For seventeen (17) through twenty-nine (29) years of service: Vacation shall accrue at the rate of 6.1539 hours per biweekly payroll period with a total of one hundred sixty (160) hours per year;
7. For years of service from thirty (30) years or more, vacation shall accrue at the rate of 7.6923 hours per biweekly payroll period with a total of two hundred (200) hours per year; and
8. 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 therefor.

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)

(Ord. No. 10-39, § 1, 11-9-2010)

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 therefor.

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 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 ninety (90) days 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 Human Resources department 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 subsection E.1. above. In no event shall this additional on-the-job injury leave exceed four (4) hours in any one (1) 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 ninety (90) days 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. On-the-job injury leave and TTD benefits cease once an employee has been (1) released by the treating physician to return to work either full duty or light duty (except as indicated in paragraph E.2. above), or (2) has been rated for permanent restrictions/disability.

a. Released with permanent restrictions/disability. The employee is released from treatment and the treating physician provides a statement citing permanent restrictions/disability. If after being released with permanent restrictions/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 human resources department—with the assistance of the legal services department as necessary—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. The employee will be temporarily placed on on-the job injury leave on the date of release from the treating physician until returned to work or terminated from the assigned position.

i. 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.

ii. If 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 able to perform the essential functions of the assigned or other position with the city. If the employee is unable to perform the essential functions of the assigned position with or without a reasonable accommodation, 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.

b. Released to light duty. The employee is released to return to work with restrictions by the employee's treating physician. If the employee is unable to perform the essential functions of their

current position with or without a reasonable accommodation, then the employee may be assigned to do light duty work in any other city job function when work that meets the light duty restrictions is available. If light duty is unavailable the employee will remain on TTD or on-the-job injury leave, whichever is applicable. The employee will be paid for hours worked when on light duty. An employee will remain on light duty until: (1) light duty work is no longer available, (2) the employee is released to full duty, or (3) the employee is released with permanent restrictions/disability, whichever occurs sooner.

c. Released to full duty. The employee is released to return to work without restrictions by the employee's treating physician. The employee returns to work and is paid for hours worked.

i. When an employee is released to return to work (full duty) by the employee's treating physician after being absent due to an occupational 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 fitness to perform the essential functions of the employee's assigned position with or without a reasonable accommodation. 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 suffered significant permanent disability. If the evaluation indicates the employee is unable to perform the essential functions of the assigned position with or without reasonable accommodations, alternate accommodation procedures as detailed in paragraph 6.a. above will be followed.

7. 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.

8. 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 (1,040) 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)

(Ord. No. 10-06, § 1, 2-23-2010, eff. 4-1-2010; Ord. No. 11-11, § 1, 3-22-2011)

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-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; for the employee's own serious illness; or for a "qualifying exigency" arising from the fact that the employee's spouse, child, or parent who is a member of the National Guard, Reserves or certain retired members of the military have been placed on active duty or called to active duty in the Armed Forces in support of a "contingency operation". Additionally, employees meeting the requirements in Paragraph I. of this section may be eligible for Military Caregiver Leave as set forth in Paragraph I. below.

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. For purposes of qualifying exigency leave the aforementioned age and infirmity restrictions shall not apply to the definition of a "child" who is a member of the National Guard, Reserves or retired member of the military being placed on or called to active duty in support of a "contingency operation."

2."Contingency operation" means a call to active duty designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force.

3."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.

4."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".

5."Qualifying exigency leave" means a type of leave allowing eligible employees of covered employers to take up to twelve (12) weeks of FMLA leave for a "qualifying exigency" arising from the fact that the employee's spouse, child, or parent is on active duty or called to active duty in the Armed Forces in support of a "contingency operation." Qualifying exigency leave applies only to families of members of the National Guard, Reserves, and to certain retired members of the military, and not to families of active members of the regular armed services. Qualifying exigency leave also applies only to a federal call to duty or a state call under order of the President.

6."Qualifying exigency" constitutes one of the following reasons for taking qualifying exigency leave:

(a) Short-notice deployment, meaning a call or order to duty that is issued seven (7) or fewer calendar days before deployment. In such an instance the employee can take up to seven (7) days beginning on the date of notification.

(b) Military events and related activities, such as official military-sponsored ceremonies and family support and assistance programs sponsored by the military and related to the family member's call to duty.

(c) Child care and school activities - eligible employee may take available leave to arrange for child care or attend certain school functions of the son or daughter of a covered military family member, including leave to (i) arrange for alternative school or childcare; (ii) provide childcare on an urgent, immediate need (not regular) basis; (iii) enrollment or transfer of a child in a new school or day care facility; and (iv) attend meetings with school or day care staff regarding discipline, parent-teacher conferences, and school counselors.

(d) Financial and legal tasks, such as making or updating legal arrangements to deal with a family member's active duty, including but not necessarily limited to preparing or executing a will, powers of attorney, transferring bank account signature authority, obtaining military identification cards, and securing military service benefits.

(e) Counseling needed by the employee, the covered military member, or the son or daughter of the covered military member, provided that the counseling arises from active duty service or call to active duty.

(f) To spend time with the covered service member on rest and recuperation breaks during deployment, for up to five (5) days per instance of rest and recuperation.

(g) Post-deployment activities - eligible employees may take available leave to attend ceremonies incident to the return of the covered military family member, including arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of ninety (90) days following the termination of the covered military member's active duty status. Such leave is also available for eligible employees to address issues arising from the death of a covered military family member, such as meeting and recovering the body and making funeral arrangements.

(h) Other purposes arising out of the call to duty, so long as the eligible employee and City agree that the type of leave is permissible under FMLA; agree to the timing of the leave; and agree to the duration of the leave.

7. "Spouse" means the husband or wife of the employee as the case may be. Although this term does include common law marriages, this term does not include an unmarried domestic partner.

8."Serious illness" means an illness, injury, impairment or physical or mental condition that involves one of the following:

(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 (3) consecutive full calendar days, that also involves either:

(i) two (2) or more treatments by a health care provider within the thirty (30) days that start with the first day of incapacitation, with the first treatment occurring in the first seven (7) days; or

(ii) one treatment by a health care provider within the seven (7) days that start with the first day of incapacitation, plus a regimen of continuing treatment under the provider's supervision, 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 (3) calendar days, or

(d) incapacity due to pregnancy or prenatal care.

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

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

11. "Twelve (12) month period" means a "rolling" twelve-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. Note: the twelve (12) month period referenced in this paragraph is different than the twelve-month period applicable to FMLA military caregiver leave, the latter of which is defined in subsection (I) of this Section.

12. "Have worked for the city for at least twelve (12) months" means a period of time totaling twelve (12) months during the past seven (7) years looking back from the date of the request for FMLA leave. The aforementioned twelve (12) months need not be consecutive. Additionally, employment periods preceding a break in service of more than seven (7) years will be counted, up to the time limits imposed by the Uniformed Services Employment and Reemployment Rights Act, when the time is served performing military service for the National Guard or Reserve.

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 following the birth or adoption of a child that is related to said birth or adoption cannot be taken on an

intermittent or on a reduced schedule absent the existence of a serious medical condition. 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 employee's normal number of hours per work week or work day.

2. Intermittent leave means a leave of one hour or more but under twelve (12) 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. If the need for leave is not foreseeable, the employee must provide notice as soon as is practicable, ordinarily within one or two (2) business days of when the employee learns of the need for leave. Employees must follow the City's customary call-in procedures. The notice provided must, at a minimum, be sufficient to make the City aware that the employee needs FMLA leave, as well as the expected timing and duration of the leave. Failure to provide notice sufficient to make the City aware that the employee needs FMLA leave could result in a denial of the employee's leave application.

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. The certification must be completed no later than fifteen (15) days after the leave is requested. Should the certification be deficient, the City will notify the employee and they will be allotted an additional seven (7) days to correct the certification. It is the employee's obligation to provide complete and sufficient certification to the City. Failure to do so could result in a denial or a delay in the employee's FMLA leave request. The certification provided to the City shall state:

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

(b) Probable duration of the condition; and

(c) Appropriate medical facts sufficient to support the need for leave; 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; and

(f) Any other relevant information as identified in Title 29 part 825.306 of the Code of Federal Regulations that an employer may require.

3. When an employee requests FMLA leave the employee's supervisor shall notify the Human Resources Department of the request. A representative of the Human Resources Department, either on his or her own initiative or through the employee's supervisor, will notify the employee of the employee's eligibility for taking FMLA leave within five (5) business days, absent extenuating circumstances. Concurrent with that notice, the City will notify the employee of all obligations and expectations for taking FMLA leave, including supplying the employee with a list of essential job functions so that the employee can complete the return to duty certificate; notice of obligation to obtain certificates and the penalties for failing to do so;

right to health benefits; obligation to provide periodic reports; and other obligations and expectations as permitted by the Family Medical Leave Act. After the Human Resources Department has enough information to determine whether the leave is being taken for an FMLA-qualifying reason, a representative of the Human Resources Department or the employee's supervisor will notify the employee of whether the leave will be designated and counted as FMLA leave. Said notification as to whether the leave will be designated and counted as FMLA leave will be made within five (5) business days, absent extenuating circumstances, of the City's receipt of the information it requested to make a designation determination. The City also has a right to designate an absence as Family Medical Leave on its own volition, consistent with applicable laws and regulations, even if the employee does not request it.

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 (3) 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 essential job functions. 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 (2) weeks duration. Said reporting requirements shall commence on the second Friday of the leave period and every Friday thereafter.

G. The following procedures shall apply when requests for qualifying exigency leave are made:

1. Employees seeking qualifying exigency leave must give reasonable and practicable notice to their immediate supervisor if the qualifying exigency is foreseeable. Generally, this means requesting leave the same day or the day following when the employee first learned of the need for leave.

2. The notice must inform the city that a family member is on active duty or call to active duty status, cite a listed reason for leave, and give the anticipated length of absence.

3. The city may require certification for qualifying exigency leave by requiring the employee to provide a copy of the service member's active duty orders for the first instance of leave. As part of the certification

process the city may also require the employee complete any certification forms it has created or forms created by the U.S. Department of Labor.

4. An employee taking qualifying exigency leave will be allowed to continue participating in the city's employee 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.

5. The city requires that employees taking qualifying exigency 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.

6. 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 (2) weeks duration. Said reporting requirements shall commence on the second Friday of the leave period and every Friday thereafter.

7. The allowed maximum twelve (12) work weeks of qualifying exigency leave during a twelve-month period is a part of the same twelve (12) work weeks allocated for family medical leave during a twelve-month period, not in addition to.

H. If the employee on qualifying exigency leave or FMLA leave other than military caregiver leave is unable or fails to return at the end of the twelve-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-week period. The city shall not be entitled to recovery of the city's portion of the employee's health coverage.

I. Military caregiver leave. Employees qualifying as "covered family members" 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 twenty-six (26) workweeks of job-protected FMLA leave during a single twelve-month period to care for a covered servicemember who suffered a serious injury or illness during active military duty.

1. Covered servicemember. For purposes of military caregiver leave "covered servicemember" means: (1) a current member of the Armed Forces, Guard, or Reserves; (2) who suffered a serious illness or injury in the line of duty on active duty; and (3) is undergoing medical treatment, recuperation, therapy, outpatient, or has been placed on the temporary disability retirement list by the military. Former members of the Armed Forces, Guard, or Reserves are not "covered servicemembers" for purposes of military caregiver leave.

2. Covered family members. To be entitled to FMLA military caregiver leave the eligible employee must be the spouse, son, daughter, parent or next of kin of the covered servicemember.

(a) "Spouse," for purposes of military caregiver leave means the same as the definition used above for regular FMLA leave.

(b) "Son" or "daughter" for purposes of military caregiver leave 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. When used in the context of military caregiver leave, no age restriction applies to these terms.

(c) "Parent" for purposes of military caregiver leave means the service member's biological, adopted, foster parent, stepparent, or other person who stood in loco parentis to the service member. Parent does not include in-laws.

(d) "Next of kin" for purposes of military caregiver leave excludes a servicemember's spouse, parent, son or daughter, and is defined as the following blood relatives in this order of priority: (i) blood relatives with legal custody of the servicemember by court order or statute, (ii) siblings, (iii) grandparents, (iv) aunts and uncles, and (v) first cousins. The servicemember, however, may designate in writing a specific blood relative as next of kin, and that designation will control. Except where the next of kin has been designated, all family members sharing the closest level of family relationship to the servicemember are considered "next of kin" and each, provided he or she is otherwise eligible, has the right to take FMLA military caregiver leave to care for the covered servicemember.

3. Amount of leave.

(a) An eligible employee is entitled to take up to twenty-six (26) weeks of FMLA leave in a single twelve-month period to care for a covered servicemember. The single twelve-month period begins to run on the first day that the eligible employee takes military caregiver leave, and ends twelve (12) months after that date. Any non-military caregiver family medical leave that is taken during the twelve-month period used for calculating military caregiver leave will reduce the number of weeks available for military caregiver leave during said twelve-month period. Unused military caregiver leave expires at the end of the twelve-month period, regardless of whether the need continues; i.e. unused leave cannot be "banked" for future use after the expiration of the twelve-month period.

4. Form of leave. Military caregiver leave may be taken intermittently, on a reduced leave schedule, or in a single block of time. Leave taken on an intermittent or reduced schedule must be recertified every three (3) calendar months.

5. Transfer to alternative position. The city may transfer an employee who needs leave on an intermittent or reduced schedule to care for a covered service member that is foreseeable based on planned medical treatment for the servicemember. Any such transfer must comply with applicable collective bargaining agreements, and must have equivalent pay and benefits. Equivalent duties are not required.

6. Employee notice of the need for military caregiver leave. An employee wanting to take military caregiver leave must follow the city's existing FMLA notice rules and provide their immediate supervisor with timely and adequate notice of the need for such leave. The city shall have the same rights it has under regular FMLA leave to deny such leave when inadequate notice is given.

7. Certification. The city may require certification for military caregiver leave by requiring the employee to provide medical documentation from identified health care providers. As part of the certification process the city may also require the employee to complete any certification forms it has created or forms created by the U.S. Department of Labor.

8. Continuing health benefit coverage. An employee taking military caregiver 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.

9. Substitution of paid leave. The city requires that employees taking military caregiver leave substitute any accrued paid leave during the period of leave. Such substitution will count toward the twenty-six-week period allowed. The term "paid leave" includes vacation, sick leave, fixed holidays, flexible holidays and leave bank time.

10. Employee check-in requirement. 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 (2) weeks duration. Said reporting requirements shall commence on the second Friday of the leave period and every Friday thereafter.

11. Exhaustion of leave. If the employee on military caregiver leave is unable or fails to return at the end of the twenty-six-week military caregiver family leave period, the employee's right to continued employment shall cease on the earlier of one of the following dates.

(a) On the date the employee advises the city that the employee does not intend to return to work.

(b) If the condition still exists for which the leave was authorized, the date shall be the last day of the twenty-six-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)

(Ord. No. 09-10, § 1, 3-10-2009)

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 thirty (30) 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 eighty (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)

(Ord. No. 12-22, § 1, 7-10-2012, eff. 8-9-2012)

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 thirty (30) 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 where a criminal action has been filed and the disposition of the criminal court case remains unresolved, 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; Ord. No. 14-21, § 1, 6-10-2014)

Editor's note— Ord. No. 14-21, § 1, adopted June 10, 2014, amended subsection 17-1-7-171 B., and has an effective date of July 10, 2014.

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 human resources department.

C. The supervisor receiving the grievance is to carefully consider the matter, arrive at a full understanding, and give the employee a clear specific answer within three (3) 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 (3) 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 (3) working days from the date of receiving the appeal. A copy of the appeal and response will be transmitted to the city manager.

E. If the employee is not satisfied with the answer from the department director, the employee, pursuant to provisions elsewhere in the personnel rules, may appeal to the employee advisory committee.

F. Any disciplinary action in which a predetermination hearing was held may be immediately appealed to either the employee advisory committee or the personnel board, whichever is appropriate, based on the nature of the disciplinary action.

G. Employees in a bargaining unit having a collective bargaining agreement with the city shall follow the grievance procedure set forth in their bargaining unit's collective bargaining agreement instead of the grievance procedure set forth in this section.

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

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 17-182 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	Creation.
17-2-9-202	Membership.
17-2-9-203	Qualifications.
17-2-9-204	Organizational meetings-Officers.
17-2-9-205	Elections.
17-2-9-206	Recall of members.
17-2-9-207	Filling of vacancies.
17-2-9-208	Terms of office.
17-2-9-209	Compensation; expenses.
17-2-9-210	Meetings of the committee; agenda; minutes.
17-2-9-211	Council liaison.
17-2-9-212	Clerical assistance.
17-2-9-213	Quorum.
17-2-9-214	Meeting procedure.
17-2-9-215	Purpose of the committee.
17-2-9-216	Appeals to the committee.
17-2-9-217	Hearings.
17-2-9-218	Findings
17-2-9-219	Action of the city manager.

Section 17-2-9-201 - Creation.

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 that do not belong to a collective bargaining unit authorized by the Oklahoma Fire and Police Arbitration Act at 11 O.S. § 51-101 et seq.

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

(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

(Ord. No. 11-51, § 4, 11-15-2011)

Section 17-2-9-202 - Reserved. Membership.

A. One member, as provided hereinafter, shall be elected to represent each of the following employee occupational groups as identified in the pay plan:

1.Professional #1: Professional employees from all city divisions;

2. Technical #1: Technical employees from all city divisions;

3. Clerical #1: Clerical employees from the departments and/or divisions of the city clerk, city manager, human resources, city attorney, municipal court, auditing, revenue services, accounting, information

technology, planning, housing and community development, engineering, finance administration, library, police, fire, arts and humanities, community development administration, community services administration, financial services and McMahon Auditorium.

4. Clerical #2: Clerical employees from the divisions of retired services volunteer program, parks and recreation administration, parks maintenance, public works administration, streets, water distribution and wastewater collection, waste water treatment plant, refuse collection, animal shelter, animal control, water treatment plants, sports and aquatics, recreation services, senior services, lakes and lands, cemetery, building maintenance, environmental services, electronic maintenance, equipment maintenance, solid waste collection, water distribution, license and permits, neighborhood services, inspection services, and drainage maintenance.

5. Labor/Trades #1: Labor and trade employees from the departments and/or divisions of municipal court, revenue services, purchasing, museum, police support and 911 communications, and McMahon Auditorium.

6. Labor/Trades #2: Labor and trade employees from the divisions of parks maintenance, cemetery, building maintenance, parks and recreation administration, sports and aquatics, recreation services, lakes, landscape maintenance, and senior services.

7. Labor/Trades #3: Labor and trade employees from the divisions of streets, equipment maintenance, drainage maintenance, and animal welfare.

8. Labor/Trades #4: Labor and trade employees from the divisions of wastewater collection, wastewater maintenance and water distribution.

9. Labor/Trades #5: Labor and trade employees from the divisions of the wastewater treatment plant and refuse disposal, and the water treatment plants.

10.Labor/Trades #6: Labor and trade employees from the divisions of refuse collection and sewer construction.

(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)

(Ord. No. 11-51, § 5, 11-15-2011)

Section 17-2-9-203 - Qualifications.

A. Each member of the employee advisory committee shall be either a regular full-time or regular part-time employee of the group from which elected.

B. Neither the city manager, assistant city manager, any department director nor any division supervisor identified as a supervisor of any budget division activity shall be a committee member.

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

(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

(Ord. No. 11-51, § 6, 11-15-2011)

Section 17-2-9-204 - Organizational meetings—Officers.

A. Immediately after the election of members, the human resources director shall call an organizational meeting.

B. The committee shall elect one of its members to serve as chairman and another of its members to serve as vice-chairman until the next election. The vice-chairman shall, in the absence of the chairman, preside at all meetings and otherwise perform the duties of the chairman.

C. During such times as the vice-chairman serves as chairman for an extended vacancy in the office of chairman, the committee shall elect a temporary vice-chairman.

D. The chairman or vice-chairman, as a member, may exercise all the rights and privileges of a member, including the right to vote on questions.

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

(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

(Ord. No. 11-51, § 7, 11-15-2011)

Section 17-2-9-205 - Elections.

A. The time for elections shall be set by the city clerk at least thirty (30) calendar days before the election. The election date for the initial election establishing the committee members shall be on the first Tuesday that is at least thirty (30) calendar days after the effective date of this ordinance. Subsequent elections shall be held each year on the first Tuesday in October.

B. The city clerk shall be in charge of all elections and shall see that the proper procedures are observed.

C. Candidate procedures are as follows:

1. To become a candidate for a position, any regular full-time or regular part-time employee must submit the employee's name within fifteen (15) calendar days of the appointed election date to the clerk on a form provided by the human resources director; and

2. The city clerk shall cause to be posted on all employee bulletin boards notification of such elections and all procedures which must be followed for the election at least thirty (30) calendar days before the election.

D. Election procedures are as follows:

1. Polls shall open and close on the date of the election as set forth by the city clerk;

2. Each regular full-time or regular part-time employee shall have an opportunity to vote during the work day within the time limit prescribed;

3. Employees not working during the time of the election may vote on election day at the employee's own discretion, but within the prescribed time limit;

4. Employees on annual leave or who are sick and are unable to vote on election day may so vote by receiving from the city clerk a ballot in advance of the election, provided:

a. Such employees will have from the deadline of candidate filing (fifteen (15) days before the election) to the time specified for the polls to close on the date of the election to vote by absentee ballot;

b. Such ballots must be returned by the time the polls close on the day of the election;

c. The absentee ballots must be sealed in an envelope and each ballot must be signed by the voting employee; and

d. The absentee ballots will be counted with the regular ballots after the election;

5. Whenever an emergency illness may arise, causing an employee to be unable to obtain an absentee ballot, the city clerk shall rule on these matters to determine the most feasible way to allow such employees to vote if possible; and

6. A record of the names of all persons voting shall be kept by the city clerk.

E. Vote tabulation procedures are as follows:

1. The votes shall be tabulated within twenty-four (24) hours of the election;

2. In each election, the votes shall be counted by the city clerk in the presence of a human resources employee designated by the human resources director.

3. Election returns shall be posted on the employee bulletin boards within twenty-four (24) hours of the election.

F. Election of committee members.

1. Each regular full-time and regular part-time employee shall be permitted one vote for a candidate for the position representing the occupational group of which the employee is a member.

2. The candidate receiving the highest vote for membership to the position for which he or she is running shall be elected.

3. Ties shall be broken by the candidates drawing lots before the city clerk and witnesses.

G. Write-in candidates are subject to the following:

1. No write-in votes for a position shall be tabulated if one or more candidates for the same position have filed with the city clerk the requisite form as provided in these rules;

2. If no qualified candidate is running for a position up for election, write-in votes shall be tabulated and the city clerk shall verify, in the presence of a human resources employee designated by the human resources director, within fifteen (15) days, that the necessary write-in votes meet the eligibility requirement to be a

member of the committee. After such verification, the eligible, regular employee receiving the highest number of votes shall be certified by the city clerk as the person elected;

3. If the write-in candidate receiving the highest number of votes refuses to serve or is ineligible to serve, the eligible candidate with the next highest number of votes shall be elected;

4. All ties shall be broken by the candidates drawing lots before the city clerk and witnesses.

(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)

(Ord. No. 11-51, § 8, 11-15-2011)

Section 17-2-9-206 - Recall of members.

A. Any member of the committee may be recalled if a petition bearing the signatures of at least sixty percent (60%) of all employees eligible to vote for the member is filed with the city clerk, provided each page of the petition clearly identifies the person being recalled and the reason for the recall.

B. The city clerk shall verify the eligibility of employees to sign the recall petition.

C. The city clerk shall advise the chairman of the committee and the member so recalled of the findings.

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

(Ord. 2007-41, Amended, 07/10/2007)

(Ord. No. 11-51, § 9, 11-15-2011)

Section 17-2-9-207 - Filling of vacancies.

A. When a vacancy occurs, the vacancy shall be filled as follows:

1. The chairman of the committee shall advise the city clerk in writing of the vacancy. A signup list for the open position will be maintained in the city clerk's office for ten (10) business days following the city clerk's receipt of the notice of vacancy. During the signup period eligible employees interested in holding the position may sign up for the position by signing the signup list in the city clerk's office during normal business hours. At the end of the signup period the human resources director or another employee from the human resources department shall confirm the eligibility of the employees on the signup list. Any employee who is deemed ineligible shall be removed from the list. Said list will then be submitted to the committee who will select an employee from the list to fill the vacant position. In the event no eligible employee is willing to serve, the position shall remain vacant until either (a) an eligible employee volunteers to serve the remainder of the term by filing a written notice with the city clerk or (b) the term expires and a new election is held.

2. Such selection shall be only for the remainder of the term of the member whose position is vacant.

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

(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

(Ord. No. 11-51, § 10, 11-15-2011)

Section 17-2-9-208 - Terms of office.

A. The term of office of committee members shall be two (2) years, except for original member who shall be elected for terms as follows:

1. Professional	Until October 2, 2012
2. Technical	Until October 8, 2013
3. Clerical #1	Until October 2, 2012
4. Clerical #2	Until October 8, 2013
5. Labor and Trades #1	Until October 2, 2012
6. Labor and Trades #2	Until October 8, 2013
7. Labor and Trades #3	Until October 2, 2012
8. Labor and Trades #4	Until October 8, 2013
9. Labor and Trades #5	Until October 2, 2012
10. Labor and Trades #6	Until October 8, 2013

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

(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

(Ord. No. 11-51, § 11, 11-15-2011)

Section 17-2-9-209 - Compensation; expenses.

A. All committee members shall serve without compensation for service other than their regular pay, except that attendance at regular monthly meetings shall be counted as time worked.

B. Funds will be provided for reasonable and necessary expenses as approved by the committee and authorized by the city manager.

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

(Ord. 2007-41, Amended, 07/10/2007)

(Ord. No. 11-51, § 12, 11-15-2011)

Section 17-2-9-210 - Meetings of the committee; agenda; minutes.

A. The committee shall hold an organizational meeting as previously provided, at least one regularly scheduled meeting each month, and such special meetings and hearings as may be necessary.

1. The committee shall determine the time and place of its regular monthly meeting; and

2. Special meetings may be called by the chairman or by the written authority of a majority of the entire committee, provided written notice shall be delivered to each member of the committee at least twelve (12) hours prior to the time set for the meeting.

B. The committee shall issue an agenda for all meetings.

C. The committee shall cause a record of minutes of all meetings to be kept.

D. Any member who is unable to attend any regular or special meeting of the committee shall notify the chairman or the recording secretary prior to the meeting, and such absence from the regular or special meeting shall be deemed to be an excused absence. All other absences shall be deemed as unexcused absences.

E. Any member of the employee advisory committee who during his or her term has three (3) unexcused absences for regular or special meetings or combination of such meetings shall automatically cease to hold such office and the office shall therefore immediately be declared vacant. Such vacancy shall be filled as set out in Section 17-207 of this chapter.

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

(Ord. 2007-41, Amended, 07/10/2007)

(Ord. No. 11-51, § 13, 11-15-2011)

Section 17-2-9-211 - Council liaison.

The city council may at its discretion appoint a councilmember to serve as a liaison to the committee. This council liaison shall not be a member of the committee, but shall be provided an agenda and advance notice of all committee meetings.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)
(Ord. No. 11-51, § 14, 11-15-2011)

Section 17-2-9-212 - Clerical assistance.

The city manager shall arrange for such clerical assistance and staff liaison as may be necessary to keep official records and minutes of all committee meetings and hearings, and provide necessary communication with the city manager's office.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)
(Ord. No. 11-51, § 15, 11-15-2011)

Section 17-2-9-213 - Quorum.

A. A majority of all members of the committee shall constitute a quorum.

B. The committee shall not transact business at any meeting at which a quorum is not present.

C. If a quorum is not present, the chairman may continue the meeting or hearing to another date upon giving proper notice of such continued notice or meeting.

D. Every official action and decision rendered by the committee must be approved by a majority of the total committee.

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

(Ord. 2007-41, Amended, 07/10/2007)

(Ord. No. 11-51, § 16, 11-15-2011)

Section 17-2-9-214 - Meeting procedure.

A. All meetings of the committee shall be open to the public and its proceedings are subject to and governed by the provisions of the Oklahoma Open Meeting Act.

B. The committee shall adopt such rules or procedure as necessary for the efficient and fair conduct of its business.

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

(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)

(Ord. No. 11-51, § 17, 11-15-2011)

Section 17-2-9-215 - Purpose of the committee.

A. The committee may on a bi-annual basis [January and July of each year] make a written recommendation through the human resources director to the city manager on matters regarding personnel policies, including changes in the personnel rules, administrative regulations and employee benefits.

1. The city manager, upon receipt of a bi-annual written recommendation from the committee, shall meet with the committee within thirty (30) calendar days to discuss its recommendations.
2. In addition to meeting with the committee the city manager may also submit to the committee a written response to its recommendations.
3. The bi-annual recommendations of the committee, along with any response and recommendation from the city manager, shall be transmitted by the city manager to the city council within ten (10) calendar days of the city manager's meeting with the committee.
4. Nothing in this section shall prohibit the committee and the city manager from meeting more frequently as they mutually deem necessary. However, while the city manager may do so, nothing in this section shall require the city manager to forward recommendations from these additional meetings to the city council.

B. In addition to the meetings set forth in paragraph "A" of this section, the committee may in March of each year request a meeting with the city manager to discuss budgetary concerns and make recommendations for the upcoming fiscal year's preliminary budget. If requested, such a meeting will be held within thirty (30) calendar days.

C. The committee may review the classification and pay plans of the city and, from time to time, make recommendations through the human resources director to the city manager.

1. It is the policy of the city that the human resources director shall cause a survey for rates of pay and fringe benefits prevailing in the community and in other similar cities, which shall be conducted at least once every four (4) years, such survey to be for jobs comparable to those in the city's service;
2. The results of this survey, along with the recommendations of the human resources director regarding proposed changes in the city's classification and pay plans shall be submitted to the committee for review and recommendation to the city manager;
3. The results of the survey and proposed changes shall be submitted to the committee not less than thirty (30) calendar days prior to submittal of any subsequent recommendation of the city manager to the city council; and
4. Such recommendation of the committee shall be transmitted to the city council along with the recommendation of the city manager within twenty (20) calendar days of receiving the report of the human resources director.

D. Except as excluded in sub-paragraph 4 below, the committee may review any proposed changes to Chapter 17 - Personnel Policies and Procedures, of the Lawton City Code prior to the submission of any proposed changes to the city council.

1. The human resources director will submit to the committee any proposed changes to Chapter 17 prior to the proposed changes being submitted to the city council;
2. The committee may review the city's proposed changes and submit to the city manager its own changes, comments, suggestions, opposition to, or agreement with the city's proposed changes within ten (10) calendar days of receiving the city's proposed changes;
3. The city council will be made aware of the committee's changes, comments, suggestions, opposition to, or agreement with the city's proposed changes to Chapter 17 of the city code prior to the council voting on an amendment to Chapter 17; and
4. This provision shall not apply to any code changes required by state or federal law.

E. The committee shall have authority as set forth in Section 17-1-4-143 to (a) provide recommendations on the employee educational incentive program and (b) serve as an appeal committee for educational assistance incentive applications that have been denied by the human resources director and make recommendations concerning such appeals to the city manager who shall have final authority to approve or deny an application.

F. Nothing in this section shall require the city to accept, adopt, or implement any recommendation from the committee. The employee advisory committee's authority is limited to that of an advisory committee. The city

shall retain final authority to determine and implement policy over its employees and the terms and conditions of employment. The authority to make changes to the city code, including the personnel policies within Chapter 17 of the city code, remains vested with the city council. The city council retains full authority to amend the city code and any other policies and procedures at anytime without the approval of the employee advisory committee.
(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007; Ord. 2006-86, Amended, 11/14/2006)
(Ord. No. 11-51, § 18, 11-15-2011)

Section 17-2-9-216 - Appeals to the committee.

A. Any regular or regular part-time employee of the city may appeal in writing to the committee for a hearing and finding regarding suspension without pay for ten (10) working days or less and for any other grievance. However:

1. The committee shall not consider appeals on the layoff, suspension of over ten (10) working days, demotion or removal of any employee, such appeals being the responsibility of the personnel board;
2. The committee shall consider only appeals in which the employee has first followed the procedure for administrative appeal as set forth in Section 17-1-7-174 of this code;
3. The committee shall hear only such appeals that have been submitted in writing within ten (10) working days of the action precipitating the appeal or within ten (10) working days of the denial by a department director of the employee's administrative appeal, whichever date is latter; and
4. Such written appeals to the committee are to be filed with the human resources director who shall forward a copy to the chair of the committee.
5. The employee may have an advocate represent them and speak on their behalf at a hearing before the employee advisory committee, provided the advocate is not a City of Lawton department director, supervisor, elected city official, employee of the city manager's office, employee of the city attorney's office, employee of the human resources department, committee member, or someone who is expected to testify as a witness at the hearing. The costs of the advocate shall be at the employee's expense. Any such advocate will be expected to be familiar with the personnel rules and policies of the City of Lawton.

(97-26, Amended, 05/27/1997)
(Ord. 2007-41, Amended, 07/10/2007)
(Ord. No. 11-51, § 19, 11-15-2011)

Section 17-2-9-217 - Hearings.

A. All hearings pursuant to a written appeal shall be held in not less than fifteen (15) calendar days nor more than thirty (30) calendar days from the date the appeal was filed, and notice of such hearing shall be provided at least

forty-eight (48) hours prior to the hearing to the appellant, to the members of the committee, and to the city manager.

B. Hearings on appeals are to be called by the chair of the committee.

C. The committee shall determine such rules of procedure as will provide efficient and equitable conduct of its hearings.

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

(Ord. 2007-41, Amended, 07/10/2007)

(Ord. No. 11-51, § 20, 11-15-2011)

Section 17-2-9-218 - Findings.

At the conclusion of any hearing resulting from appeal by an employee, the committee shall make findings and recommendations which shall be provided to the city manager. Said findings and recommendations shall be delivered to the manager within three (3) working days after the close of the hearing. The recommendation shall not be binding upon the city manager.

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

(Ord. 2007-41, Amended, 07/10/2007)

(Ord. No. 11-51, § 21, 11-15-2011)

Section 17-2-9-219 – Action of the city manager.

A. The city manager shall consider the committee's recommendation and shall file a written report with the committee and with the employee making the appeal within ten (10) working days from receipt of the committee recommendation, as to the final disposition of the matter, including any statement or reasons for the action taken.

B. The action of the city manager shall be final.

C. The action is to be implemented immediately by the city manager.

(Ord. No. 11-51, § 22, 11-15-2011)

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.

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.

B. No person related within the third degree of affinity or consanguinity to any employee of the human resource department shall be appointed to any office, position or clerkship or any other service of the city except that the

city manager, on a case by base basis, may allow a relative of a member of a human resources department staff member to be employed if not otherwise prohibited by subsection A.

C. 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.

D. 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)

(Ord. 2008-70, Amended, 12/02/2008)

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. Not withstanding 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.**

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.**

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.**

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)

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.**

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)

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.
17-3-4-357	Reversions.

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 June 27, 2011, of the employee retirement system of the city as established originally effective as of November 1, 1970, by Ordinance No. 299.

C. The retirement system is intended to satisfy Code Section 401(a) by meeting the requirements of Code Section 414(d). The retirement system is maintained for the exclusive benefit of the members and their beneficiaries.

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

(Ord. 09-04, Amended, 02/06/2009; Ord. 2006-81, Amended, 10/24/2006)

(Ord. No. 09-03, § 1, 1-27-2009; Ord. No. 11-14, § 1, 5-10-2011, eff. 6-12-2011; Ord. No. 11-23, § 1, 6-14-2011, eff. 8-1-2011)

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 seven percent (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. Effective for annuity starting dates on and after July 1, 2011, the mortality table shall be the RP-2000 Mortality Table (50% male, 50% female) and the interest rate shall be six and three-fourths percent (6.75%);

2. "Average final monthly compensation" means the member's average monthly rate of earnings from the city for the three (3) successive calendar years out of the six (6) 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 (3) 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 41/3, or if biweekly by 21/6, 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 (6) 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. "Date of Hire" means the first day of the creditable service of any employee.

9. "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;

10."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;

11. "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;

12. "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 two hundred thousand dollars ($200,000.00), 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 one hundred fifty thousand dollars ($150,000.00), 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 twelve (12) months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (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 twelve (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 one hundred fifty thousand dollars ($150,000.00).

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 nineteen (19) before the close of the plan year. If, as a result of the application of such rules the adjusted one hundred fifty thousand dollar ($150,000.00) 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 two hundred thousand dollars ($200,000.00). Annual earnings or compensation means earnings or compensation during the plan year or such other consecutive twelve-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 one hundred fifty thousand dollars ($150,000.00) for any determination period beginning in 1996 or earlier; one hundred sixty thousand dollars

($160,000.00) for any determination period beginning in 1997, 1998, or 1999; and one hundred seventy thousand dollars ($170,000.00) for any determination period beginning in 2000 or 2001.

The two hundred thousand dollar ($200,000.00) 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;

13. "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 June 27, 2011, except as otherwise provided;

14. "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 ten percent (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 twenty percent (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;

15. "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;

16. "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 year; provided that, for plan years beginning after December 31, 1996, such services are performed under the primary direction or control of the recipient.

17. "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.

18. "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 (6) months following the semi-annual adjustment date;

19. "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 (30) years of creditable service; or

c. Is the date as of which the member attains age sixty-five (65);

20. "Pension" means monthly payments to a retiree derived as provided in this retirement system;

21. "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;

22. "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;

23. "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;

24. "Retirement" means withdrawal from active employment of the city with retirement income granted under the provisions of the retirement system;

25. "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;

26. "Revised retirement system" means the employee retirement system of the city as amended and restated in its entirety effective as of July 1, 2008, as set forth in this Division 17-3-4, and as thereafter amended from time to time;

27. "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;

28. "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;

29. "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

30. "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. 09-04, Amended, 02/06/2009; Ord. 2006-81, Amended, 10/24/2006)

(Ord. No. 09-03, § 2, 1-27-2009; Ord. No. 11-14, § 2, 5-10-2011, eff. 6-12-2011)

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 (i) nine percent (9.0%) of members' payroll for the period beginning January 1, 2010 and continuing each pay period thereafter through June 26, 2011; and (ii) ten percent (10.0%) of members' payroll for the pay period beginning on June 27, 2011 and each subsequent pay period thereafter.

C. Members shall pay into the trust fund through payroll deductions each pay period at the rate of (i) five and thirty hundredths percent (5.30%) of their earnings for such pay period for the period beginning on July 14, 2008 and each subsequent pay period thereafter through June 26, 2011; and (ii) six and thirty hundredths percent (6.30%) of their earnings for pay period beginning on June 27, 2011 and each subsequent pay period thereafter.

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)

(Ord. No. 09-39, § 1, 12-1-2009, eff. 1-1-2010; Ord. No. 11-14, § 3, 5-10-2011, eff. 6-12-2011)

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 age, a member shall be one hundred percent (100%) vested in his normal retirement benefit under the retirement system. 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:

Prior to 1985	25%
Calendar 1985	20%
Calendar 1986	16%
Calendar 1987	14%
Calendar 1988	9%
Calendar 1989	5%
Calendar 1990	0%
Retirement Year	Increase

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 (2) 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 (½) 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 whose Date of Hire is before June 30, 2011 and retires on or after July 1, 1998, shall be equal to two and three-tenths percent (2.3%) of the member's average final monthly compensation multiplied by the member's total number of years of creditable service.

H. The amount of monthly retirement benefit payable to a member whose Date of Hire was on or after June 30, 2011 (including any member reemployed by the City on or after June 30, 2011 and who has made a repayment to the retirement system in accordance with Section 17-3-4-350) and who retires after June 30, 2011, shall be the sum of two and three-tenths percent (2.3%) of the member's compensation paid during each Plan Year, divided by 12. The benefit calculated under this Subsection H shall be considered as a "career average benefit."

(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)

(Ord. No. 11-14, § 4, 5-10-2011, eff. 6-12-2011; Ord. No. 11-23, § 2, 6-14-2011, eff. 8-1-2011)

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, or career average benefit, as applicable, as of the member's actual retirement date.

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

(Ord. No. 11-14, § 5, 5-10-2011, eff. 6-12-2011)

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, or career average benefit, as applicable, 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)
(Ord. No. 11-14, § 6, 5-10-2011, eff. 6-12-2011)

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 (5) 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 (2) 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, or career average benefit, as applicable, 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.

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.

3. However, in no event shall the monthly disability benefit payable under (1) or (2) above exceed the amount of monthly retirement benefit the member would have received had he continued in service to his normal retirement age at the same rate of earnings as in effect on his date of disability.

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 (6) 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)

(Ord. No. 11-14, § 7, 5-10-2011, eff. 6-12-2011)

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 one thousand dollars ($1,000.00) 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.

7. Transition rule. Effective for plan years beginning after December 31, 2003, and before 2006, for plan benefits subject to Section 417(e)(3), the equivalent annual straight life annuity is equal to the greater of the equivalent annual benefit computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial equivalence for the particular form of benefit payable, and the equivalent annual benefit computed using five and one-half percent (5.5%) and the applicable mortality table.

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.

For plan years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined by Code Section 3401(h)(2), shall be treated as an Employee of the City making the payment, (ii) the differential wage payment shall be treated as compensation, and (iii) the Plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

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 five percent (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 "defined benefit dollar limitation" is one hundred sixty thousand dollars ($160,000.00), 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.

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 (3) years, where "high three (3) years" refers to the period of three (3) consecutive limitation years (or the actual number of consecutive limitation years of employment for members who are employed for less than three (3) 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 twelve-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 twelve-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 twelve-consecutive month period, the maximum permissible amount will not exceed the defined benefit dollar limitations multiplied by the following fraction:

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 one hundred percent (100%) of the member's highest average compensation. If the member has less than ten (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 ten (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 ten (10) years of participation with the city, the compensation limitation (described in Section 415 of the code) is reduced by one-tenth (1/10) for each year of service (or part thereof) less than ten (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 ten-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 sixty-two (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 sixty-five (65), the dollar limitation for benefits commencing on or after age sixty-two (62) is determined by reducing the defined benefit dollar limitation by five-ninths (5/9) of one percent for each month by which benefits commence before the month in which the member attains age sixty-five (65).

(ii) If a member's social security retirement age is greater than sixty-five (65), the dollar limitation for benefits commencing on or after age sixty-two (62) is determined by reducing the defined benefit dollar limitation by five-ninths (5/9) of one percent for each of the first thirty-six (36) months and five-twelfths (5/12) of one percent for each of the additional months (up to twenty-four (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 sixty-two (62), the defined benefit dollar limitation shall be the actuarial equivalent of an annual benefit beginning at age sixty-two (62), as determined above, reduced for each month by which benefits commence before the month in which the member attains age sixty-two (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 five percent (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 five percent (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 sixty-five (65) in the case of a member attaining age sixty-two (62) before January 1, 2000 (i.e., born before January 1, 1938), age sixty-six (66) for a member attaining age; age sixty-two (62) after December 31, 1999, and before January 1, 2017 (i.e., born after December 31, 1937, but before January 1, 1955), and age sixty-seven (67) for a member attaining age sixty-two (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 twelve-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. The retirement system shall comply with the final Treasury Regulations of Code Section 415 as of the applicable effective dates therein.

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 one hundred sixty thousand dollars ($160,000.00), 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 ten (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 ten (10). In the case of a participant who has fewer than ten (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 ten (10).

(ii) If the benefit of a participant begins prior to age sixty-two (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 sixty-two (62) (adjusted under (a) above, if required). The defined benefit dollar limitation applicable at an age prior

to age sixty-two (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 five percent (5%) 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 sixty-five (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 sixty-five (65) (adjusted under (i) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (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 five percent (5%) interest rate assumption and the applicable mortality table as defined in the retirement system. For these purposes, mortality between age sixty-five (65) and the age at which benefits commence shall be ignored.

D. Actual compensation.

1. Effective date. The provisions of this Section D shall apply to "Limitation Years" that begin more than ninety (90) days after the close of the first regular legislative session of the legislative body with authority to amend the Plan that begins on and after July 1, 2007.

2. Actual compensation paid after "Severance from Employment." Actual compensation shall be adjusted, as set forth herein, for the following types of compensation paid after a participant's "severance from employment" with the employer maintaining the Plan (or any other entity that is treated as the employer pursuant to Code Section 414(b), (c), (m) or (o)). However, amounts described in Subsections 3(a), (b) and (c) below may only be included in actual compensation to the extent such amounts are paid by the later of two and one-half (2½) months after "severance from employment" or by the end of the "limitation year" that includes the date of such "severance from employment." Any other payment of compensation paid after "severance from employment" that is not described in the following types of compensation is not considered actual compensation within the meaning of Code Section 415(c)(3), even if payment is made within the time period specified above.

3. (a) Regular pay. Actual compensation shall include regular pay after "severance from employment" if:

(1) The payment is regular compensation for services during the participant's regular working hours, or compensation for services outside the participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

(2) The payment would have been paid to the participant prior to a "severance from employment" if the participant had continued in employment with the employer.

(b) Leave cashouts. Leave cashouts shall not be included in actual compensation. For this purpose, a "leave cashout" will not include compensation received by an employee on terminal leave, which shall be considered to be actual compensation.

(c) Deferred compensation. Actual compensation will not include deferred compensation.

(d) Salary continuation payments for military service participants. Actual compensation does not include payments to an individual who does not currently perform services for the employer by reason of qualified military service (as that term is used in Code Section 414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

(e) Salary continuation payments for disabled participants. Actual compensation does not include compensation paid to a participant who is permanently and totally disabled (as defined in Code Section 22(e)(3)).

4. Administrative delay ("the first few weeks") rule. Actual compensation for a "limitation year" shall not include amounts earned but not paid during the "limitation year" solely because of the timing of pay periods and pay dates.

5. Inclusion of certain nonqualified deferred compensation amounts. If the plan's definition of compensation for purposes of Code Section 415 is the definition in Regulations Section 1.415(c)-2(b) (Regulations Section 1.415-2(d)(2) under the regulations in effect for "limitation years" beginning prior to July 1, 2007) and the simplified compensation definition of Regulations Section 1.415(c)-2(d)(2) (Regulations Section 1.415-2(d)(10) under the Regulations in effect for "limitation years" prior to July 1, 2007) is not used, then actual compensation shall include amounts that are includible in the gross income of a participant under the rules of Code Section 409A or Code Section 457(f)(1)(A) or because the amounts are constructively received by the participant.

6. Back pay. Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by an employer to compensate an employee for lost wages are actual compensation for the "limitation year" to which the back pay relates, but only to the extent such payments represent wages and compensation that would otherwise be included in actual compensation under this article.

7. Change of "limitation year." The "limitation year" may only be changed by a plan amendment. Furthermore, if the plan is terminated effective as of a date other than the last day of the plan's "limitation year," then the plan is treated as if the plan had been amended to change its "limitation year."

E. Plan compensation.

1. Compensation paid after "severance from employment." Compensation for purposes of benefits (hereinafter referred to as plan compensation) shall be adjusted in the same manner as actual compensation pursuant to Subsection D if those amounts would have been included in Compensation if they were paid prior to the participant's "severance from employment," except in applying Subsection D, the term "limitation year" shall be replaced with the term "plan year" and the term "actual compensation" shall be replaced with the term "plan compensation."

2. Effective date of plan compensation provisions. The provisions of this Section E shall apply for plan years beginning on and after July 1, 2007.

F. Code Section 415 limitations.

1. Annual benefit.

(a) Effective date. The limitations of this Section F apply in "limitation years" that begin more than ninety (90) days after the close of the first regular legislative session of the legislative body with authority to amend the plan that begins on or after July 1, 2007, except as otherwise provided herein.

(b) Annual benefit. The "annual benefit" otherwise payable to a participant under the plan at any time shall not exceed the "maximum permissible benefit." if the benefit the participant would otherwise accrue in a "limitation year" would produce an "annual benefit" in excess of the "maximum permissible benefit," then the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the "maximum permissible benefit."

(c) Adjustment if in two (2) defined benefit plans. If the participant is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a "predecessor employer," the sum of the participant's "annual benefits" from all such plans may not exceed the "maximum permissible benefit." Where the participant's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the "maximum permissible benefit" applicable at that age, the employer shall limit a participant's benefit in accordance with the terms of the plans.

(d) Grandfather of limits prior to July 1, 2007. The application of the provisions of this Section F shall not cause the "maximum permissible benefit" for any participant to be less than the participant's accrued benefit under all the defined benefit plans of the employer or a "predecessor employer" as of the end of the last "limitation year" beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Code Section 415 in effect as of the end of the last "limitation year" beginning before July 1, 2007, as described in Regulations Section 1.415(a)-1(g)(4).

(e) Other rules applicable. The limitations of this Section F shall be determined and applied taking into account the rules in Subsection F.3.

2. Definitions. For purposes of this Section F, the following definitions apply.

(a) Annual benefit. "Annual benefit" means a benefit that is payable annually in the form of a "straight life annuity." except as provided below, where a benefit is payable in a form other than a "straight life annuity," the benefit shall be adjusted to an actuarially equivalent "straight life annuity" that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this article. For a participant who has or will have distributions commencing at more than one annuity starting date, the "annual benefit" shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Section F as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new annuity starting date has occurred shall be made without regard to Regulations Section 1.401(a)-20, Q&A 10(d), and with regard to Regulations Section 1.415(b)1(b)(1)(iii)(B) and (C).

No actuarial adjustment to the benefit shall be made for (a) survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the participant's benefit were paid in another form; (b) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or (c) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Code Section 417(e)(3) and would otherwise satisfy the limitations of this Section F, and the plan provides that the amount payable under the form of benefit in any "limitation year" shall not exceed the limits of this Section F applicable at the annuity starting date, as increased in subsequent years pursuant to Code Section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

The determination of the "annual benefit" shall take into account Social Security supplements described in Code Section 411(a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant Regulations Section 1.411(d)-4, Q&A-3(c), but shall disregard benefits attributable to employee contributions or rollover contributions.

(1) Except as otherwise provided herein, effective for distributions in Plan Years beginning after December 31, 2003, the required determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with this paragraph. However, this paragraph does not supersede any prior election to apply the transition rule of section 101(d)(3) of PFEA as described in Notice 2004-78. Effective for annuity starting dates in a Plan Year beginning on or after January 1, 2008, for purposes of this Section F, the "applicable mortality table" means the applicable mortality table within the meaning of Code Section 417(e)(3)(B) as described in Revenue Ruling 2007-67. With respect to benefit forms not subject to the present value rules of Code Section 417(e)(3), the straight life annuity that is actuarially equivalent to the Participant's form of benefit shall be determined under this paragraph if the form of the Participant's benefit is either a nondecreasing annuity (other than a straight life 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 (b) an annuity that decreases during the life of the Participant merely because of (1) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or (2) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in Code Section 401(a)(11)).

(i) "Limitation years" beginning before July 1, 2007. For "limitation years" beginning before July 1, 2007, the actuarially equivalent "straight life annuity" is equal to the annual amount of the "straight life annuity" commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and (II) five percent (5%) interest rate assumption and the applicable mortality table defined in the plan for that annuity starting date.

(ii) "Limitation years" beginning on or after July 1, 2007. For "limitation years" beginning on or after July 1, 2007, the actuarially equivalent "straight life annuity" is equal to the greater of (I) the annual amount of the "straight life

annuity" (if any) payable to the participant under the plan commencing at the same annuity starting date as the participant's form of benefit; and (II) the annual amount of the "straight life annuity" commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table defined in the plan for that annuity starting date.

(2) Benefit forms subject to Code Section 417(e)(3). The "straight life annuity" that is actuarially equivalent to the participant's form of benefit shall be determined under this paragraph if the form of the participant's benefit is other than a benefit form described in Subsection 2(a)(1) above. In this case, the actuarially equivalent "straight life annuity" shall be determined as follows:

(i)

Annuity Starting Date in small plans for Plan Years Beginning in 2009 and later. Notwithstanding anything in this Section to the contrary, if the annuity starting date of the Participant's form of benefit is in a Plan Year beginning in or after 2009, and if the Plan is maintained by an eligible employer as defined Code Section 408(p)(2)(C)(i), the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the Participant's form of benefit, computed using whichever of the following produces the greater annual amount:

(a) The interest rate and the mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; and

(b) A five and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in the first paragraph of Section (F)(2)(a)(1).

(ii) Annuity starting date in plan years beginning after 2005. Except as provided in Subsection (i), if the annuity starting date of the participant's form of benefit is in a plan year beginning after December 31, 2005, the actuarially equivalent "straight life annuity" is equal to the greatest of: (I) the annual amount of the "straight life annuity" commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; (II) the annual amount of the "straight life annuity" commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using a five and one-half percent (5.5%) percent interest rate assumption and the applicable mortality table for the distribution under Regulation Section 1.417(e)-1(d)(2) (determined in accordance with the first paragraph of Section (F)(2)(a)(1) for Plan Years after the effective date specified below); and (III) the annual amount of the "straight life annuity" commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using the applicable interest rate for the distribution under Regulation Section 1.417(e)-1(d)(3) (determined in accordance with the first paragraph of Section (F)(2)(a)(1) for Plan Years on or after January 1, 2008 and the applicable mortality table for the distribution under Regulation Section 1.417(e)-1(d)(2) (determined in accordance with the first paragraph of Section (F)(2)(a)(1) for Plan Years after the effective date specified below), divided by 1.05.

The effective date of the applicable mortality table above is for years beginning after December 31, 2008.

(ii) Annuity starting date in plan years beginning in 2004 or 2005. If the annuity starting date of the participant's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent "straight life annuity" is equal to the annual amount of the "straight life annuity" commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and (II) a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table for the distribution under Regulation Section 1.417(e)-1(d)(2).

For purposes of the Plan's provisions relating to the calculation of the present value of a benefit payment that is subject to Code Section 417(e), as well as any other Plan provision referring directly or indirectly to the "applicable interest rate" or "applicable mortality table" used for purposes of Code Section 417(e), any provision prescribing the use of the annual rate of interest on 30-year U.S. Treasury securities shall be implemented by instead using the rate of interest determined by applicable interest rate described by Code Section 417(e) after its amendment by PPA. Specifically, the applicable interest rate shall be the adjusted first, second, and third segment rates applied under the rules similar to the rules of Code Section 430(h)(2)(C) for the calendar month (lookback month) before the first day of the Plan Year in which the annuity starting date occurs (stability period). For this purpose, the first, second, and third segment rates are the first, second, and third segment rates which would be determined under Code Section 430(h)(2)(C) if:

(i) Code Section 430(h)(2)(D) were applied by substituting the average yields for the month described in the preceding paragraph for the average yields for the 24-month period described in such section, and

(ii) Code Section 430(h)(2)(G)(i)(II) were applied by substituting "Section 417(e)(3)(A)(ii)(II) for "Section 412(b)(5)(B)(ii)(II)," and

(iii) The applicable percentage under Code Section 430(h)(2)(G) is treated as being twenty percent (20%) in 2008, forty percent (40%) in 2009, sixty percent (60%) in 2010, and eighty percent (80%) in 2011.

(b) Defined benefit compensation limitation. "Defined benefit compensation limitation" means one hundred percent (100%) of a participant's "high three-year average compensation," payable in the form of a "straight life annuity." In the case of a participant who has had a "severance from employment" with the employer, the "defined benefit compensation limitation" applicable to the participant in any "limitation year" beginning after the date of severance shall be automatically adjusted by multiplying the limitation applicable to the participant in the prior "limitation year" by the annual adjustment factor under Code Section 415(d) that is published in the Internal Revenue Bulletin. The adjusted compensation limit shall apply to "limitation years" ending with or within the calendar year of the date of the adjustment, but a participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

In the case of a participant who is rehired after a "severance from employment," the "defined benefit compensation limitation" is the greater of one hundred percent (100%) of the participant's "high three-year average compensation," as determined prior to the "severance from employment," as adjusted pursuant to the preceding paragraph, if

applicable; or one hundred percent (100%) of the participant's "high three-year average compensation," as determined after the "severance from employment."

(c) Defined benefit dollar limitation. "Defined benefit dollar limitation" means, effective for "limitation years" ending after December 31, 2001, one hundred sixty thousand dollars ($160,000.00), automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a "straight life annuity." the new limitation shall apply to "limitation years" ending with or within the calendar year of the date of the adjustment, but a participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

(d) Employer. "Employer" means, for purposes of this Section F, the employer that has adopted the plan, and all members of a controlled group of corporations, as defined in Code Section 414(b), as modified by Code Section 415(h)), all commonly controlled trades or businesses (as defined in Code Section 414(c), as modified, except in the case of a brother-sister group of trades or businesses under common control, by Code Section 415(h)), or affiliated service groups (as defined in Code Section 414(m)) of which the adopting employer is a part, and any other entity required to be aggregated with the employer pursuant to Code Section 414(o).

(e) Formerly affiliated plan of the employer. "Formerly affiliated plan of the employer" means a plan that, immediately prior to the cessation of affiliation, was actually maintained by the employer and, immediately after the cessation of affiliation, is not actually maintained by the employer. For this purpose, "cessation of affiliation" means the event that (i) causes an entity to no longer be considered the employer, such as the sale of a member of a controlled group of corporations, as defined in Code Section 414(b), as modified by Code Section 415(h), to an unrelated corporation, or (ii) causes a plan to not actually be maintained by the employer, such as transfer of plan sponsorship outside a controlled group.

(f) High three-year average compensation. "High three-year average compensation" means the average actual compensation for the three (3) consecutive years of service (or, if the participant has less than three (3) consecutive years of service, the participant's longest consecutive period of service, including fractions of years, but not less than one year) with the employer that produces the highest average. A participant's actual compensation for a year of service shall not include actual compensation in excess of the limitation under Code Section 401(a)(17) that is in effect for the calendar year in which such year of service begins. For purposes of this definition, a year of service with the employer is the twelve-consecutive month period defined in the plan which is used to determine actual compensation under the plan.

In the case of a participant who is rehired by the employer after a "severance from employment," the participant's "high three-year average compensation" shall be calculated by excluding all years for which the participant performs no services for and receives no actual compensation from the employer (the break period) and by treating the years immediately preceding and following the break period as consecutive.

(g) Limitation year. "Limitation year" means the period specified in the plan that is used to apply the Code Section 415 limitations.

(h) Maximum permissible benefit. "Maximum permissible benefit" means the lesser of the "defined benefit dollar limitation" or the "defined benefit compensation limitation" (both adjusted where required, as provided below).

(1) Adjustment for less than ten (10) years of participation or service: If the participant has less than ten (10) years of participation in the plan, the "defined benefit dollar limitation" shall be multiplied by a fraction — (i) the numerator of which is the number of "years of participation" in the plan (or part thereof, but not less than one year), and (ii) the denominator of which is ten (10). In the case of a participant who has less than ten (10) years of service with the employer, the "defined benefit compensation limitation" shall be multiplied by a fraction — (i) the numerator of which is the number of "years of service" with the employer (or part thereof, but not less than one year), and (ii) the denominator of which is ten (10).

(2) Adjustment of "defined benefit dollar limitation" for benefit commencement before age sixty-two (62) or after age sixty-five (65): Effective for benefits commencing in "limitation years" ending after December 31, 2001, the "defined benefit dollar limitation" shall be adjusted if the annuity starting date of the participant's benefit is before age sixty-two (62) or after age sixty-five (65). If the annuity starting date is before age sixty-two (62), the "defined benefit dollar limitation" shall be adjusted under Subsection E.2.(h)(2)(i), as modified by Subsection E.2.(h)(2)(iii). If the annuity starting date is after age sixty-five (65), the "defined benefit dollar limitation" shall be adjusted under Subsection E.2.(h)(2)(ii), as modified by Subsection E.2.(h)(2)(iii).

(i) Adjustment of "defined benefit dollar limitation" for benefit commencement before age sixty-two (62):

(I) "Limitation years" beginning before July 1, 2007. If the annuity Starting date for the participant's benefit is prior to age sixty-two (62) and occurs in a "limitation year" beginning before July 1, 2007, the "defined benefit dollar limitation" for the participant's annuity starting date is the annual amount of a benefit payable in the form of a "straight life annuity" commencing at the participant's annuity starting date that is the actuarial equivalent of the "defined benefit dollar limitation" (adjusted under Subsection E.2.(h)(1) for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and mortality table (or other tabular factor) specified in the plan; or (2) a five-percent (5%) interest rate assumption and the applicable mortality table as defined in the plan.

(II) "Limitation years" beginning on or after July 1, 2007.

(A) Plan does not have immediately commencing "straight life annuity" payable at both age sixty-two (62) and the age of benefit commencement. If the annuity starting date for the participant's benefit is prior to age sixty-two (62) and occurs in a "limitation year" beginning on or after July 1, 2007, and the plan does not have an immediately commencing "straight life annuity" payable at both age sixty-two (62) and the age of benefit commencement, the "defined benefit dollar limitation" for the participant's annuity starting date is the annual amount of a benefit payable in the form of a "straight life annuity" commencing at the participant's annuity starting date that is the actuarial equivalent of the "defined benefit dollar limitation" (adjusted under Subsection E.2.(H)(1) for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent (5%) interest rate assumption and the applicable mortality table for the annuity starting date as defined in the plan (and expressing the participant's age based on completed calendar months as of the annuity starting date).

(B) Plan has immediately commencing "straight life annuity" payable at both age sixty-two (62) and the age of benefit commencement. If the annuity starting Date for the participant's benefit is prior to age sixty-two (62) and occurs in a "limitation year" beginning on or after July 1, 2007, and the plan has an immediately commencing "straight life annuity" payable at both age sixty-two (62) and the age of benefit commencement, the "defined benefit dollar limitation" for the participant's annuity starting date is the lesser of the limitation determined under Subsection E.2.(h)(2)(i)(II)(A) and the "defined benefit dollar limitation" (adjusted under Subsection E.2.(h)(1) for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the immediately commencing "straight life annuity" under the plan at the participant's annuity starting date to the annual amount of the immediately commencing "straight life annuity" under the plan at age sixty-two (62), both determined without applying the limitations of this section.

(ii) Adjustment of "defined benefit dollar limitation" for benefit commencement after age sixty-five (65):

(I) "Limitation years" beginning before July 1, 2007. If the annuity starting date for the participant's benefit is after age sixty-five (65) and occurs in a limitation year beginning before July 1, 2007, the "defined benefit dollar limitation" for the participant's annuity starting date is the annual amount of a benefit payable in the form of a "straight life annuity" commencing at the participant's annuity starting date that is the actuarial equivalent of the "defined benefit dollar limitation" (adjusted under Subsection E.2.(H)(1) for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and mortality table (or other tabular factor) specified in the plan; or (2) a five-percent (5%) interest rate assumption and the applicable mortality table as defined in the plan.

(II) "Limitation years" beginning before July 1, 2007.

(A) Plan does not have immediately commencing "straight life annuity" payable at both age sixty-five (65) and the age of benefit commencement. If the annuity starting date for the participant's benefit is after age sixty-five (65) and occurs in a "limitation year" beginning on or after July 1, 2007, and the plan does not have an immediately commencing "straight life annuity" payable at both age sixty-five (65) and the age of benefit commencement, the "defined benefit dollar limitation" at the participant's annuity starting date is the annual amount of a benefit payable in the form of a "straight life annuity" commencing at the participant's annuity starting date that is the actuarial equivalent of the "defined benefit dollar limitation" (adjusted under Subsection E.2.(H)(1) for years of participation less than ten (10), if required), with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for that annuity starting date as defined in the plan (and expressing the participant's age based on completed calendar months as of the annuity starting date).

(B) Plan has immediately commencing "straight life annuity" payable at both age sixty-five (65) and the age of benefit commencement. If the annuity starting date for the participant's benefit is after age sixty-five (65) and occurs in a "limitation Year" beginning on or after July 1, 2007, and the plan has an immediately commencing "straight life annuity" payable at both age sixty-five (65) and the age of benefit commencement, the "defined benefit dollar limitation" at the participant's annuity starting date is the lesser of the limitation determined under Subsection

E.2.(h)(2)(ii)(II)(A) and the "defined benefit dollar limitation" (adjusted under Subsection E.2.(h)(1) for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing "straight life annuity" under the plan at the participant's annuity starting date to the annual amount of the adjusted immediately commencing "straight life annuity" under the plan at age sixty-five (65), both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing "straight life annuity" under the plan at the participant's annuity starting date is the annual amount of such annuity payable to the participant, computed disregarding the participant's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing "straight life annuity" under the plan at age sixty-five (65) is the annual amount of such annuity that would be payable under the plan to a hypothetical participant who is age sixty-five (65) and has the same accrued benefit as the participant.

(iii) Notwithstanding the other requirements of this Subsection E.2.(h)(2), no adjustment shall be made to the "defined benefit dollar limitation" to reflect the probability of a participant's death between the annuity starting date and age sixty-two (62), or between age sixty-five (65) and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the participant prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the participant's death if the plan does not charge participants for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the participant's death.

(3) Minimum benefit permitted: Notwithstanding anything else in this section to the contrary, the benefit otherwise accrued or payable to a participant under this plan shall be deemed not to exceed the "maximum permissible benefit" if:

(i) The retirement benefits payable for a "limitation year" under any form of benefit with respect to such participant under this plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer do not exceed ten thousand dollars ($10,000.00) multiplied by a fraction — (I) the numerator of which is the participant's number of years (or part thereof, but not less than one year) of service (not to exceed ten (10)) with the employer, and (II) the denominator of which is ten (10); and

(ii) The employer (or a "predecessor employer") has not at any time maintained a defined contribution plan in which the participant participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under Code Section 401(h), and accounts for post-retirement medical benefits established under Code Section 419A(d)(1) are not considered a separate defined contribution plan).

(i) Predecessor employer. "Predecessor employer" means, with respect to a participant, a former employer of such participant if the employer maintains a plan that provides a benefit which the participant accrued while performing services for the former employer. A former entity that antedates the employer is also a "predecessor employer" with respect to a participant if, under the facts and circumstances, the employer constitutes a continuation of all or a portion of the trade or business of the former entity. For this purpose, the formerly affiliated plan rules in Regulations Section 1.415(f)-1(b)(2) apply as if the employer and "predecessor employer" constituted a single

employer under the rules described in Regulations Section 1.415(a)-1(f)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two (2), unrelated employers under the rules described in Regulations Section 1.415(a)-1(f)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gives rise to the "predecessor employer" relationship, such as a transfer of benefits or plan sponsorship.

(j) Severance from employment. "Severance from employment" means, with respect to any individual, cessation from being an employee of the employer maintaining the plan. An employee does not have a "severance from employment" if, in connection with a change of employment, the employee's new employer maintains the plan with respect to the employee.

(k) Straight life annuity. "Straight life annuity" means an annuity payable in equal installments for the life of a participant that terminates upon the participant's death.

(l) Year of participation. "Year of participation" means, with respect to a participant, each accrual computation period (computed to fractional parts of a year) for which the following conditions are met: (1) the participant is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, and (2) the participant is included as a participant under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two (2) conditions are met, the portion of a "year of participation" credited to the participant shall equal the amount of benefit accrual service credited to the Participant for such accrual computation period. A participant who is permanently and totally disabled within the meaning of Code Section 415(c)(3)(C)(i) for an accrual computation period shall receive a "year of participation" with respect to that period.

In addition, for a participant to receive a "year of participation" (or part thereof) for an accrual computation period, the plan must be established no later that the last day of such accrual computation period. In no event shall more than one "year of participation" be credited for any twelve-month period.

(m) Year of service. "Year of service" means, for purposes of subsection 2(f), each accrual computation period (computed to fractional parts of a year) for which a participant is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, taking into account only service with the employer or a "predecessor employer."

3. Other rules.

(a) Benefits under terminated plans. If a defined benefit plan maintained by the employer has terminated with sufficient assets for the payment of benefit liabilities of all plan participants and a participant in the plan has not yet commenced benefits under the plan, the benefits provided pursuant to the annuities purchased to provide the participant's benefits under the terminated plan at each possible annuity starting date shall be taken into account in applying the limitations of this article. If there are not sufficient assets for the payment of all participants' benefit

liabilities, the benefits taken into account shall be the benefits that are actually provided to the participant under the terminated plan.

(b) Benefits transferred from the plan. If a participant's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan maintained by the employer and the transfer is not a transfer of distributable benefits pursuant Regulations Section 1.411(d)-4, Q&A-3(c), then the transferred benefits are not treated as being provided under the transferor plan (but are taken into account as benefits provided under the transferee plan). If a participant's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan that is not maintained by the employer and the transfer is not a transfer of distributable benefits pursuant to Regulations Section 1.411(d)-4, Q&A-3(c), then the transferred benefits are treated by the employer's Plan as if such benefits were provided under annuities purchased to provide benefits under a plan maintained by the employer that terminated immediately prior to the transfer with sufficient assets to pay all participants' benefit liabilities under the plan. If a participant's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan in a transfer of distributable benefits pursuant to Regulations Section 1.411(d)-4, Q&A-3(c), the amount transferred is treated as a benefit paid from the transferor plan.

(c) Formerly affiliated plans of the employer. A "formerly affiliated plan of an employer" shall be treated as a plan maintained by the employer, but the formerly affiliated plan shall be treated as if it had terminated immediately prior to the cessation of affiliation with sufficient assets to pay participants' benefit liabilities under the plan and had purchased annuities to provide benefits.

(d) Plans of a "predecessor employer." If the employer maintains a defined benefit plan that provides benefits accrued by a participant while performing services for a "predecessor employer," then the participant's benefits under a plan maintained by the "predecessor employer" shall be treated as provided under a plan maintained by the employer. However, for this purpose, the plan of the "predecessor employer" shall be treated as if it had terminated immediately prior to the event giving rise to the "predecessor employer" relationship with sufficient assets to pay participants' benefit liabilities under the plan, and had purchased annuities to provide benefits; the employer and the "predecessor employer" shall be treated as if they were a single employer immediately prior to such event and as unrelated employers immediately after the event; and if the event giving rise to the predecessor relationship is a benefit transfer, the transferred benefits shall be excluded in determining the benefits provide under the plan of the "predecessor employer."

(e) Special rules. The limitations of this article shall be determined and applied taking into account the rules in Regulations Section 1.415(f)-1(d), (e) and (h).

(f) Aggregation with multiemployer plans.

(1) If the employer maintains a multiemployer plan, as defined in Code Section 414(f), and the multiemployer plan so provides, only the benefits under the multiemployer plan that are provided by the employer shall be treated as benefits provided under a plan maintained by the employer for purposes of this article.

(2) Effective for "limitation years" ending after December 31, 2001, a multiemployer plan shall be disregarded for purposes of applying the compensation limitation of Subsections 2(b) and E.2.(h)(1) to a plan which is not a multiemployer plan.

(98-08, Amended, 03/24/1998; 97-26, Amended, 05/27/1997)

(Ord. 09-04, Amended, 02/06/2009; Ord. 2006-81, Amended, 10/24/2006)

(Ord. No. 09-03, § 3, 1-27-2009; Ord. No. 11-23, § 3, 6-14-2011, eff. 8-1-2011; Ord. No. 12-16, § 2, 5-8-2012; Ord. No. 12-17, § 1, 6-12-2012)

Section 17-3-4-344 - Mandatory distributions.

A. General rules.

1. Precedence. The requirements of this section will take precedence over any inconsistent provisions of the plan.

2. Requirements of Treasury Regulations Incorporated. All distributions required under this section will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Internal Revenue Code.

B. Time and manner of distribution.

1. Required beginning date. The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date.

2. Death of participant before distributions begin. If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) If the participant's surviving spouse is the participant's sole designated beneficiary, then, except as provided in the adoption agreement, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age seventy and one-half (70½), if later.

(b) If the participant's surviving spouse is not the participant's sole designated beneficiary, then, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

(c) If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(d) If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse begin, this Subsection (2), other than Subsection (2)(a), will apply as if the surviving spouse were the participant.

For purposes of this Subsection (2) and Subsection F, distributions are considered to begin on the participant's required beginning date (or, if Subsection (2)(d) applies, the date distributions are required to begin to

the surviving spouse under Subsection (2)(a)). If annuity payments irrevocably commence to the participant before the participant's required beginning date (or to the participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Subsection (2)(a), the date distributions are considered to begin is the date distributions actually commence.

3. Form of distribution. Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Subsections C, D and E. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations. Any part of the participant's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

C. Determination of amount to be distributed each year.

1. General annuity requirements. If the participant's interest is paid in the form of annuity distributions under the plan, payments under the annuity will satisfy the following requirements:

(a) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(b) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Subsections D or E;

(c) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;

(d) payments will either be nonincreasing or increase only as follows:

i. by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

ii. to the extent of the reduction in the amount of the participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section D dies or is no longer the participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p);

iii. to provide cash refunds of employee contributions upon the participant's death; or

iv. to pay increased benefits that result from a plan amendment.

2. Amount required to be distributed by required beginning date. The amount that must be distributed on or before the participant's required beginning date (or, if the participant dies before distributions begin, the date distributions are required to begin under Subsection B.2(a) or (b)) is the

payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the participant's required beginning date.

3. Additional accruals after first distribution calendar year. Any additional benefits accruing to the participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

D. Requirements for annuity distributions that commence during participant's lifetime.

1. Joint life annuities where the beneficiary is not the participant's spouse. If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspouse beneficiary, annuity payments to be made on or after the participant's required beginning date to the designated beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

2. Period certain annuities. Unless the participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the participant reaches age seventy (70), the applicable distribution period for the participant is the distribution period for age seventy (70) under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of seventy (70) over the age of the participant as of the participant's birthday in the year that contains the annuity starting date. If the participant's spouse is the participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the participant's applicable distribution period, as determined under this Subsection B.2, or the joint life and last survivor expectancy of the participant and the participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

E. Requirements for minimum distributions where participant dies before date distributions begin.

1. Participant survived by designated beneficiary. If the participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the participant's entire interest will be distributed,

beginning no later than the time described in Subsection B.2(a) or (b), over the life of the designated beneficiary or over a period certain not exceeding:

(a) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the participant's death; or

(b) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

2. No designated beneficiary. If the participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

3. Death of surviving spouse before distributions to surviving spouse begin. If the participant dies before the date distribution of his or her interest begins, the participant's surviving spouse is the participant's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Subsection E will apply as if the surviving spouse were the participant, except that the time by which distributions must begin will be determined without regard to Subsection E.

F. Definitions.

1. Designated beneficiary. The individual who is designated as the beneficiary under Section 17-3-4-333(A)(3) of the plan and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

2. Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Subsection B(2).

3. Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

4. Required beginning date. For purposes of this section, the "required beginning date" of a participant is the April 1 of the calendar year following the later of the April 1 of the calendar year following the calendar year in which the participant attains age seventy and one-half (70½) or retires. (97-26, Amended, 05/27/1997) (Ord. 09-04, Amended, 02/06/2009; Ord. 2006-81, Amended, 10/24/2006) (Ord. No. 09-03, § 4, 1-27-2009)

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. A member's retirement benefits shall be subject to forfeiture upon the conviction of or plea of guilty or nolo contendere to certain crimes as set forth hereinafter.

1. Any member upon final conviction of, or pleading guilty or nolo contendere in a state or federal court of competent jurisdiction to, a felony for bribery, corruption, forgery or perjury or any other crime related to the duties of his or her employment shall forfeit their retirement benefits. The forfeiture of benefits shall not occur if any such member received a deferred sentence, but retirement benefits shall not commence prior to completion of the deferred sentence. The forfeiture of retirement benefits required as a result of Paragraph E. of this section shall not include the member's contributions to the retirement system or retirement benefits that are vested as of August 26, 2011.

2. The forfeiture of retirement benefits as provided for in Paragraph E. of this section shall also apply to any such member who, after leaving employment, is convicted of, or pleads guilty or nolo contendere in a state or federal court of competent jurisdiction to, a felony committed while in such employment, where the

felony is for bribery, corruption, forgery or perjury or any other crime related to the duties of his or her employment.

3. The forfeiture shall continue until such time as the conviction or guilty plea is reversed by the highest appellate court to which the officer or employee may appeal.

4. The attorney responsible for prosecuting the member shall notify the retirement system if the member is convicted of or upon entering a plea of guilty or nolo contendere to any of the crimes set forth in Paragraph E. of this section. Upon receiving notice of a conviction, plea of guilty or plea of nolo contendere, the retirement system shall immediately suspend all benefits of the member, and shall notify the member of his or her right to a hearing before the pension commissioners to review whether the conviction or plea qualifies for forfeiture of benefits under Paragraph E. of this section. If the notice of a conviction, plea of guilty or plea of nolo contendere is not forthcoming but there is reason to suspect a conviction and/or plea may have occurred, the retirement system may, at the discretion of the pension commissioners, investigate and gather court documents and contact prosecutors to determine whether the conviction or plea qualifies under this section. Upon obtaining sufficient documentation of the conviction or plea, the retirement system shall immediately suspend all benefits of the member and notify the member of his or her right to a hearing to review whether the conviction or plea qualifies for forfeiture of benefits under Paragraph E. of this section. A member shall have thirty (30) days from the date of notification to request a hearing before the pension commissioners. Requests for such a hearing shall be made in writing to the city clerk.

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. Any member who is convicted, pleads guilty or nolo contendere of any state law prohibiting strikes by public employees shall have a right to a hearing before the pension commissioners to review whether the conviction or plea qualifies for forfeiture of benefits. A member shall have thirty (30) days from the date of notification to request a hearing before the pension commissioners. Requests for such a hearing shall be made in writing to the city clerk.

(98-08, Amended, 03/24/1998; 97-26, Amended, 05/27/1997)

(Ord. 2006-81, Amended, 10/24/2006)

(Ord. No. 12-04, § 1, 2-14-2012, eff. 3-15-2012)

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-six and two-thirds percent (662/3%) 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.

G. For any distribution notice issued in Plan Years beginning after December 31, 2006, any reference to the 90-day maximum notice period requirements of Code Section 402(f) is changed to 180 days.

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

(Ord. 2006-81, Amended, 10/24/2006)

(Ord. No. 11-14, § 8, 5-10-2011, eff. 6-12-2011; Ord. No. 12-16, § 3, 5-8-2012)

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, or career average benefit, as applicable, 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.

G. For Plan Years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined by Code Section 3401(h)(2), shall be treated as an Employee of the City making the payment, (ii) the differential wage payment shall be treated as compensation, and (iii) the Plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

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

(Ord. 2006-81, Amended, 10/24/2006)

(Ord. No. 11-14, § 9, 5-10-2011, eff. 6-12-2011; Ord. No. 12-16, § 4, 5-8-2012)

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 ten (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, a qualified trust described in Section 401(a) of the Code, an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any 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 Plan; or, effective January 1, 2008, a Roth IRA described in Code Section 408A(b), that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an eligible rollover distribution to the surviving spouse or a Participant's surviving Beneficiary, an eligible retirement plan is an individual retirement account or individual retirement annuity. 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 alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code. If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account, an eligible retirement plan with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual. In the case of a nonspouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity described in Code Section 408(a) or 408(b)

("IRA") that is established on behalf of the designated Beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code Section 402(c)(ii). Further, the determination of any required minimum distribution under Code Section 401(a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

3. Distributee: A "distributee" includes a participant or former participant. In addition, the participant's spouse or former participant's surviving spouse or surviving beneficiary 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. 09-04, Amended, 02/06/2009; Ord. 2006-81, Amended, 10/24/2006)

(Ord. No. 09-03, § 5, 1-27-2009; Ord. No. 12-16, § 5, 5-8-2012)

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) (Ord. 2006-81, Amended, 10/24/2006)

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. In the event the city terminates the retirement system or in the event there is a partial termination of the retirement system, then, the active participants shall be one hundred percent (100%) vested in their respective accrued benefits to the extent then funded.

(97-26, Amended, 05/27/1997)
(Ord. 2006-81, Amended, 10/24/2006)
(Ord. No. 11-23, § 4, 6-14-2011, eff. 8-1-2011)

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)

Section 17-3-4-357 - Reversions.

The reversion of funds to the city shall not be permitted unless (i) the reversion is due to a good faith mistake of fact; or (ii) in the event of the termination of the retirement system, amounts in excess of the amount required to satisfy all liabilities with respect to participants and their beneficiaries may revert to the city.

(Ord. No. 11-23, § 5, 6-14-2011, eff. 8-1-2011)

ADDENDUM D

PROMOTIONAL SYSTEM FOR UNIFORMED FIRE DEPARTMENT PERSONNEL

Purpose:

To establish procedures for use by the Fire Department in determining eligibility and ranking of uniformed members of the Lawton Fire Department for consideration within the promotional system.

Background:

A promotional procedure involving the selection of persons who are qualified by meeting certain minimal standards has been in effect since May 1974. Since that time, a promotional system has been utilized to place members within the rank structure of the Lawton Fire Department. That rank structure historically has been:

1) Deputy Fire Chief
2) Captain
3) Lieutenant
4) Apparatus Driver
5) Fire fighter

On July 1, 2011 the following Rank structure with Intermediate Ranks was implemented:

1) Assistant Chief
2) Fire Major
3) Company Officer
    a) Station Officers
        (1) Multi-Company Officer/Captain
        (2) Single Company Officer/Captain
    b) Junior Company Officer/Lieutenant
4) Fire Equipment Operator
    a) Sergeant
    b) Driver
5) Firefighter
    a) Corporal
    b) Firefighter

The Ranks of Driver , Lieutenant, Single Company Captain, and Multi-Company Captain shall be tested promotions whereby candidates shall be selected from an established Promotional Selection List as detailed within this policy. The Ranks of Corporal and Sergeant are considered Intermediate Ranks and as such, are not tested promotions but are subject to Time-in-Grade and training requirements as detailed within this policy.

Promotions achieved while in Staff positions will allow lateral transfer back into Line positions of equivalent rank subject to the additional Time-in-Grade and training requirements as detailed in the Staff Personnel section within this policy.

Promotional System

General:

The Promotional System, as described within this policy, shall be used by the Lawton Fire Department in determining the eligibility and ranking of Fire Department personnel for promotional consideration. The Promotional System process involves the selection of qualified personnel to enter the promotional process. Generally, these standards are:

A. Meeting a specified minimal time-in-grade within the present classification.
B. Successfully accomplishing all assigned training requirements for the next higher classification.
C. Possessing minimal personal health and physical standards.

2. All persons who meet the minimum qualifications shall be eligible to enter the promotional process. Any remaining candidate's not promoted shall be eligible to re-enter the promotional process each time a new list is to be established. It will not be mandatory for any individual to enter the promotional process except when less than three individuals (i.e. two (2) or less) enter by personal decision.

Line Personnel:

In the event less than three (3) individuals enter, then additional individuals will be required to enter until at least three (3) eligible persons are available and competing for each position. Eligible individuals will be required to enter by length of time in their present grade with the most senior being chosen first for inclusion into the process.

Staff Personnel:

In the event less than three (3) individuals enter, the eligibility requirements may then be changed to allow more applicants the eligibility to apply for the position or the position may be filled with current eligible applying candidates at the discretion of the Fire Chief.

3. The complete promotion process, including the required written examinations, shall commence during the same monthly time period each year, so that a new eligibility list will be available and in effect on the date the previous year's eligibility list expires. The Promotional Selection List shall be valid for one year beginning on January 1 of each calendar year.

4. If an individual has, for any reason, voluntarily terminated or resigned his employment with the City of Lawton he shall be required to re-enter the system as a firefighter thereafter competing for promotion to the next higher rank without consideration of prior service. There will be no adjustment for prior service or time with the City of

Lawton (excluding return following a disability pension election due to an on-duty injury).

II. Promotional System Prerequisites for Fire Department Line Personnel:

All Fire Department personnel who meet the following minimal prerequisites shall be eligible to enter the promotional system for the Ranks of the Lawton Fire Department. Fire Department personnel serving in a classification to which this promotional process applies must have completed the established training program for the next higher classification as outlined below prior to the date of any written examination in which they are to participate and be so certified by the Fire Department Training Officer. Failure to receive this certification will automatically deny entry into the promotional system. The measurement as of one (1) year beyond the date of the written examination as applied to the Time-in-Grade requirements detailed below does not apply to the training requirements. The following requirements for each rank shall be met prior to eligibility for that classification:

Line Personnel

1. **Assistant Fire Chief-**
   Any Officer of the Lawton Fire Department having a minimum of Thirteen (13) years of continuous service with the Lawton Fire Department with a minimum of Seven (7) years Time-in-Grade as Company Officer.

2. **Fire Major-**
   Any Officer of the Lawton Fire Department having a minimum of eleven (11) years of continuous service with the Lawton Fire Department with a minimum of Five (5) years Time-in-Grade as Company Officer.

3. **Company Officer-**
   A. **Captain**- Both Multi-Company and Single Company Officers must have a minimum of two (2) years Time-in-Grade as a Company Officer. However, only Single Company Officers are eligible to promotions to Multi-Company.
   B. **Lieutenant**- Personnel holding the rank of Sergeant with a minimum six (6) years of continuous service with the Lawton Fire Department with two (2) years Time-in-Grade as a Fire Equipment Operator and successful completion of the Lawton Fire Department Company Officer's Academy.

C. Personnel completing the promotional requirements for equivalent Staff positions as detailed within this policy.

4. **Fire Equipment Operator-**

A. **Sergeant**- A minimum six (6) years of continuous service with the Lawton Fire Department with two (2) years in Time-in-Grade as a Fire Equipment Operator measured as of one (1) year beyond the date of the written examination and successful completion of the Lawton Fire Department Company Officers Academy.

B. **Driver**- Personnel holding the rank of Corporal with a minimum four (4) years of continuous service with the Lawton Fire Department with two (2) years Time-in-Grade as a Corporal and successful completion of the Lawton Fire Department Fire Equipment Operator Academy.

C. Personnel completing the promotional requirements for equivalent Staff positions as detailed within this policy.

5. **Firefighter-**

A. **Corporal**- Minimum two (2) years of continuous service with the Lawton Fire Department and successful completion of the Lawton Fire Department Relief Driver Program.

B. **Firefighter**- Successful completion of entry level probationary period.

Staff Personnel

1. **Fire Marshall**

A. Any Staff Officer of the Lawton Fire Department having a minimum of Ten (10) years of continuous service with the Lawton Fire Department with a minimum of Two (2) years Time-in-Grade as Deputy Fire Marshall or Four (4) years TIG as Assistant Fire Marshall or Six (6) years TIG in lower Staff positions with the Lawton Fire Department.

B. Any Company Officer of the Lawton Fire Department having a minimum of Ten (10) years of continuous service with the Lawton Fire Department with a minimum of Five (5) years Time-in-Grade as Company Officer.

a) Line personnel must successfully complete the applicable curriculum for the position of Fire Marshall and must commit to a minimum of Three (3) years service to the Staff position upon selection.

2. **Training Officer**

A. Any Staff Officer of the Lawton Fire Department having a minimum of Ten (10) years of continuous service with the Lawton Fire Department with a minimum of Two (2) years Time-in-Grade as Deputy Training Officer or Four (4) years TIG as Assistant Training Officer or Six (6) years TIG in lower Staff positions with the Lawton Fire Department.

B. Any Company Officer of the Lawton Fire Department having a minimum of Ten (10) years of continuous service with the Lawton Fire Department with a minimum of Five (5) years Time-in-Grade as Company Officer.
   a) Line personnel must successfully complete the applicable curriculum for the position of Training Officer and must commit to a minimum of Two (2) years service to the Staff position upon selection.

3. Deputy Fire Marshall

A. Any Staff Officer of the Lawton Fire Department having a minimum of Eight (8) years of continuous service with the Lawton Fire Department with a minimum of Two (2) years Time-in-Grade as Assistant Fire Marshall or Four (4) years TIG in lower Staff positions with the Lawton Fire Department

B. Any Company Officer or any Sergeant eligible to promote to Lieutenant of the Lawton Fire Department having a minimum of Eight (8) years of continuous service with the Lawton Fire Department.
   a) Line personnel must successfully complete the applicable curriculum for the position of Deputy Fire Marshall and must commit to a minimum of Three (3) years service to the Staff position upon selection.

4. Deputy Training Officer

A. Any Staff Officer of the Lawton Fire Department having a minimum of Eight (8) years of continuous service with the Lawton Fire Department with a minimum of Two (2) years Time-in-Grade as Assistant Training Officer or Four (4) years TIG in lower Staff positions with the Lawton Fire Department

B. Any Company Officer or any Sergeant eligible to promote to Lieutenant of the Lawton Fire Department having a minimum of Eight (8) years of continuous service with the Lawton Fire Department.
   a) Line personnel must successfully complete the applicable curriculum for the position of Deputy Training Officer and must commit to a minimum of Two (2) years service to the Staff position upon selection.

5. Assistant Fire Marshall

A. Any Staff Officer of the Lawton Fire Department having a minimum of Seven (7) years of continuous service with the Lawton Fire Department with a minimum of Two (2) years Time-in-Grade in lower Staff positions with the Lawton Fire Department

B. Any Company Officer, Apparatus Driver of the Lawton Fire Department or Corporal eligible to promote to Apparatus Driver having a minimum of Seven (7) years of continuous service with the Lawton Fire Department.
   a) Line personnel must successfully complete the applicable curriculum for the position of Assistant Fire Marshall and must commit to a minimum of Three (3) years service to the Staff position upon selection.

6. **Assistant Training Officer**
   A. Any Staff Officer of the Lawton Fire Department having a minimum of Seven (7) years of continuous service with the Lawton Fire Department with a minimum of Two (2) years Time-in-Grade in lower Staff positions with the Lawton Fire Department.
   B. Any Company Officer, Apparatus Driver of the Lawton Fire Department or Corporal eligible to promote to Apparatus Driver having a minimum of Seven (7) years of continuous service with the Lawton Fire Department.
      a) Line personnel must successfully complete the applicable curriculum for the position of Assistant Training Officer and must commit to a minimum of Two (2) years service to the Staff position upon selection.

7. **Fire Inspector, Fire Investigator, Safety Officer**
   A. Any Corporal of the Lawton Fire Department eligible to promote to Apparatus Driver
   B. Personnel selected to a Staff position must successfully complete the applicable curriculum for the applicable position and must commit to a minimum of Two (2) years service to the Staff position upon selection.

III. Promotional System Prerequisites for Fire Department Staff Personnel:

Staff Personnel within the CBA and promotional policy are defined as those individuals who hold the positions of Fire Chief, Deputy Fire Chief, Assistant Fire Chief, Fire Major, Fire Marshal, Deputy Fire Marshal, Assistant Fire Marshal, Fire Inspector, Fire Investigator, Training Officer, Deputy Training Officer, Assistant Training Officer, and Safety Officer. Other positions may be so designated by the City Manager as required.

Individuals may be considered for assignment to Staff positions utilizing the promotional procedures described within this policy except that time-in-grade and training requirements will be as determined by the City Manager.

For promotional purposes Staff Personnel will be considered eligible based on their rank prior to serving in the staff position and must have met the criteria for the next higher classification prior to regardless of tenure in the staff position.

Staff Personnel shall be classified within the appropriate position as outlined in the position classification and pay plan within the current Collective Bargaining Agreement.

The criteria for promotion to the position of Fire Chief shall be determined by the City Manager.

The Fire Chief and the City Manager shall determine the criteria for promotion to the classification of Deputy Fire Chief, Assistant Fire Chief, and Fire Major.

Staff personnel maintain the right under the CBA, when an approved vacancy exists in their previous or current rank, to request to be returned to the Operations Division, but only when said vacancy occurs in the normal process of events per Article 9.7 of the Collective Bargaining Agreement and under the provisions of the APR Policy.

Promotional System Procedures:

Line Personnel

1. The promotional process for Fire Department line personnel will be conducted annually in the following manner to establish the Promotional Selection List:

   A. The Fire Chief shall provide written notification a minimum of Thirty (30) calendar days prior to beginning the promotional process. A determination will be made of those who are eligible for placement on the Promotional Selection List based on the criteria established within this policy. A Promotional Eligibility List will be posted on all bulletin boards including the details of the written test program such as time schedule, reference materials, etc.

   B. The following template for the Promotional Selection Criteria Scoring Matrix will be utilized whereby Quality points are awarded for Seniority, Education, and Incentive points as follows:

      1. Seniority: up to ten (10) points (.5 points per year of service and .00137 of a point for each consecutive day of service past the date of hire up to the day of the written exam)
      2. Education: up to six (6) points for Accredited College Hours
         a) 12 to 59 hours = 2 points
         b) 60 to 119 hours = 4 points
         c) 120+ hours = 6 points
      3. Incentive points: up to nine (9) points for the following
         a) NR Paramedic certification = 4 points
         b) NR Intermediate certification = 2 points
         c) IFSAC Haz-Mat Tech/TRT certification = 2 points
         d) Time-in-Grade/Sr. position = 3 points

   Note: All quality points will be calculated up to but not including the date of the written examination. Quality points must be verifiable via official written documentation and/or licensure.

2. All quality points will be calculated by the Training Division and/or Human Resources Department. Quality point tabulations will be posted on the date of the written exam. Candidates shall be afforded the opportunity to review their quality points and shall submit any changes/challenges no later than one (1) week after the completion of the written exam. The member shall immediately notify the Fire Chief's office via the Training Division upon discovery of any perceived inaccurate information contained within the quality points. Upon expiration of the established timeline's or consent of the

member, the candidates' quality points shall be considered finalized and forwarded to the Fire Chief's office for inclusion to the next step the in promotional process.

3. The promotional position of Driver will include both a written examination as well as a practical assessment.

   a. For the practical assessment, a test will be administered whereby candidates are graded on their ability to properly operate a Fire Apparatus under simulated working fire conditions. Candidates will display efficiency in pumping procedures such as providing an adequate water supply at the proper pressure through the appropriate number of discharges. Fifty percent (50%) of the resulting score will be used as part of determining the candidate's overall position on the Promotional Selection List.
   b. A written test will also be administered of which Fifty percent (50%) of the resulting score will be used as part of determining the candidate's overall position on the Promotional Selection List.
   c. Prior to establishing the Promotional Selection List for posting, the point total resulting from the practical assessment will be added to the point total of the written test for each Fire Equipment Operator candidate. The resulting cumulative score will be used as part of determining that candidate's overall position on the Promotional Selection List.

4. For the positions of Lieutenant, Single-Company Captain, and Multi-Company Captain only a written test will be administered. The resulting cumulative score will be used as part of determining that candidate's overall position on the Promotional Selection List.

5. After the written examination for Driver, Lieutenant, Single-Company Captain, and Multi-Company Captain the results of the written (and practical) examinations will be calculated with the resulting score added to the quality points for each candidate. Individual scores from the written or practical examinations will not be posted. The top ten (10) candidates including ties with the highest aggregate score for each rank shall then be listed alphabetically and referred to the Fire Chief for evaluation. However, the posting of the list will not be accomplished until after the completion of the evaluation by the Promotional Review Committee.

6. Upon completion of the candidate Evaluation by the Promotional Review Committee for each eligible candidate, a Promotional Selection List will then be posted by listing the name of each eligible candidate from the highest to the lowest based on the cumulative aggregate score results by combining the total of the following:

   Total number of Quality points:
   a) Quality pts shall not exceed 25% of the Aggregate score
   b) Cumulative examination score(s) shall not exceed 35% of the Aggregate score
   c) Evaluation shall not exceed 40% of the Aggregate score
   d) Upon completion of the process, ties will be indicated and the list will also indicate the date that the individual will be eligible for promotion to a vacancy. All ties shall be resolved by seniority (Time-in-Grade)

7. The resulting Promotional Selection List shall then be used to fill vacancies for the ranks as they occur according to the order of the candidate on the list.

   Note: Should the entire Promotional Selection List for any Rank be exhausted for any reason, the next top ten (10) candidates including ties with the highest aggregate score for each rank shall then be listed alphabetically and referred to the Fire Chief for evaluation and a new Promotional Selection List shall be established according to the procedure listed above.

Staff Personnel

The promotional process for all Fire Department Staff personnel will be conducted in the following manner:

1. All individuals receiving a promotion through selection to a Staff position will be required to meet all TIG/testing requirements necessary for the appropriate rank.
2. TIG for Staff personnel shall continue within their previous rank regardless of tenure in their current Staff position.
3. Staff Personnel may continue to seek promotions through the testing process subject to all the TIG and training requirements as detailed in section 2 of this policy.
4. Personnel on the current years Promotional List promoted by selection to a Staff position shall receive said promotion upon satisfactory completion of the Staff positions training, curriculum, and probationary period requirements and shall receive TIG credit for that promotion retroactively back to the date of their original selection to the Staff position.
5. Personnel selected to a Staff position who are eligible to promote but not on the current years Promotional List shall receive promotion to the next rank upon satisfactory completion of the Staff positions training, curriculum, and probationary period requirements and shall receive appropriate TIG credit for that promotion subject to the following:
   A. Personnel selected to Staff positions who are not currently on the Promotional List shall receive credit for TIG of their promotion no later than Two (2) years after their selection to the Staff position subject to successful completion of the training and probationary requirements as detailed within this policy.
   B. Members who subsequently make the Promotional List prior to the two year timeframe shall receive TIG credit for that promotion retroactively back to the date of their inclusion on the Promotional list subject to successful completion of the training and probationary requirements as detailed within this policy.
6. In no instance will a Staff member who received promotion to Company Officer through appointment to a Staff position be allowed to transfer to the Operations Division as a Captain until having served a minimum of One (1) year on shift as a Lieutenant and satisfactorily completing the probationary requirements for the position. Upon completion of the probationary requirements such members will then be included during the APR process at the next naturally occurring vacancy.

V. Written and Practical Tests:

1. The following details the procedures by which the written tests shall be administered.

   a) To be eligible to participate in the written promotional examination, individuals must receive a minimum passing score of seventy-five (75) percent on the practical exam (when applicable). However, there shall be no minimum passing score required for written promotional exams.

   b) Written tests will be administered by the Training Division, Human Resources Department or as designated by the City Manager. The appropriate departments will provide non-interested supervisory personnel to assist test personnel. Responsibility for selection and construction of tests for use in the evaluation system rests with the appropriate officials as selected by the City Manager.

      1) Fire Equipment Operator Exam – questions will be taken from four (4) of the manuals designated in the corresponding section of the chart below.

      2) Company Officer Exams - questions will be taken from six (6) of the following manuals designated in the corresponding section of the chart below.

Fire Equipment Operator	Company Officer
Aerial Apparatus Driver Operator	LFD Rules/Regulations, SOG's and Policies
Fire Service Hydraulics and Water Supply	Fire Service Loss Control
Pumping Apparatus Driver Operator	Fire Service Search and Rescue
Essentials of Firefighting	Essentials of Firefighting
Fire Hose Practices	Fire Ground Support Operations
Emergency Care and Transportation of the Sick and Injured	Emergency Care and Transportation of the Sick and Injured
Principle of Foam Firefighting	Principle of Foam Firefighting
Principles of Vehicle Extrication	Fire and Emergency Services Company Officer
Haz-Mat for First Responders	Haz-Mat for First Responders
LFD SOG's	Fire and Emergency Services Instructor
	Fire Department Safety Officer
	Principles of Vehicle Extrication
	Building Construction
	Introduction to Fire Origin and Cause
	ICS Model Procedures for Incidents Involving Structural Fires, Structural Firefighting High Rise, Highway, and Managing Large Scale Incidents Using NIMS/ICS
Note: This chart may require periodical changes based on potential edition changes, title changes, revisions, etc... However, any changes to this list, editions or otherwise, that are to be used for promotional testing shall be announced no later than February 15th of the testing year. This chart will become effective for the 2016 promotional process (i.e. 2017 promotion list).	

VI. Criteria for Promotion:

Promotional Evaluations:

1. A Promotional Review Committee shall be formed consisting of the senior management of the Lawton Fire Department to include the Fire Chief, Deputy Fire Chief, and the Assistant Fire Chiefs from each shift.
2. Fire Majors will provide input on all Driver and Company Officer promotions. In addition, Station Officers (or other appropriate Officers) may be consulted to provide appropriate input regarding promotions involving their personnel.
3. The Fire Chief retains the ability to appoint individuals temporarily to the committee to fulfill duties of committee members in cases such as absences, leaves, or other instances when an assigned member is unable to be present for an evaluation review. For the purposes of any given promotion, a temporarily appointed committee member shall remain on the committee for the duration of the given promotional process [i.e. a Captain (Station Officer) assigned to the committee shall remain on the committee even upon the return of the individual who was replaced until the current promotions are completed. This should be done in an effort to maintain continuity of the process for any particular promotion.] Further, if any committee member is subsequently replaced during a review process, any candidate having already completed their review may, at their option, elect to appear before the committee again to allow any necessary interaction or communication between the new committee member and candidate.
4. For the positions of Apparatus Driver, Lieutenant, Single-Company Captain, and Multi-Company Captain the Promotional Review Committee will perform evaluations of each candidate. Evaluations will be completed utilizing the following factors which will be considered for each of the major areas of concern:

   Leadership Ability
   Personal Aggressiveness
   Health and Physical Fitness
   Qualifications in Job Performance related to Past Experience

5. Prior to the Promotional Review Committee performing their evaluations, a promotional packet for each of the ten (10) promotional candidates shall be constructed. Items to be included in each the employee's respective personnel files shall be limited to the candidates' previous three (3) years employment. The specific items to be included shall be the candidates' performance evaluations, all disciplinary action(s) that may have been issued, and any letters of recommendation (i.e. special recognition letters, etc...). The Human Resources Department will be utilized to construct the promotional packets. Following the construction of the packets, each candidate will be given an opportunity to review their respective promotional packet for accuracy prior to the Promotional Review Committee performing their evaluations.

6. The Promotional Committee will provide, as part of the evaluation, an overview of the factors considered in determining each candidate. Additionally, the Committee will answer in the following questions:

A. What does the committee consider to be the candidates' strongest attributes?
B. What does the committee consider to be the candidates' weakest attributes?
C. How does the Committee rate the candidate overall for the next higher classification? (Without consideration of the candidate as part of the competition but as an individual).
D. A recommendation regarding candidates' capability to be considered for promotion (a recommendation may be made that none should be promoted).

NOTE: If the Committee does not consider the candidate able to promote to the next higher classification, what, in detail, are committees reasons for that option and what actions does the committee consider necessary to make the candidate able to promote.

E. The resulting score will be used as part of determining that candidate's overall position on the Promotional Selection List.
F. All candidates shall be notified in writing of their evaluation score upon request.

Promotions through Staff Appointment

1. Promotions achieved through appointment to Staff positions will utilize time and training requirements in lieu of the evaluation process, however the probationary periods for each promotion shall apply without exception.
2. In order to receive promotion to the next higher rank held prior to appointment to the staff position the following requirements must be met:
   A. Successful completion of a one (1) year probationary period in the Staff position appointed to.
   B. Successful completion of a specified time commitment to the selected Staff position as measured from the initial date of appointment.
   C. Successful completion of the applicable curriculum for the Staff position appointed to. Individuals who fail to complete the curriculum within the probationary period shall have their probationary period extended until successful completion of the curriculum but shall not exceed two (2) years as measured from the initial date of appointment. (**see Section X)

IX. Conclusion and Approval:

1. The City Manager will exercise the final authority regarding selection and promotion.
2. Any tested promotion to a higher classification within the Fire Department will be considered probationary for a period of twelve (12) months regardless of the classification to which promoted or the pay step in which the member is placed. Upon completion of the twelve (12) month probationary period, the Fire Chief and/or the supervisors of the member will review the performance of the newly promoted member.
3. Any Promotion or selection to any Staff position shall be considered probationary for a period of twelve (12) months regardless of the classification to which promoted or the pay step in which the member is placed. Upon completion of the twelve (12) month

probationary period, the Fire Chief and/or the supervisors of the member will review the performance of the newly promoted member

4. In the event the individual's performance is considered satisfactory, his promotion will be final, with his date of classification set as the date he was initially promoted.
5. In the event the individual's performance is considered unsatisfactory, the individual will be placed back in the classification and pay status from which they were promoted. In this case the entire promotional process will again be followed.
6. Any member who receives two (2) letters of reprimand and/or any discipline greater than a written reprimand within a twelve (12) month period will not be eligible for a period of one (1) year from the date of the last triggering disciplinary action. In the event a promotional candidate is involved in a departmental investigation during which time a promotional vacancy becomes available, the Fire Chief shall have the discretion to postpone said promotion until after the completion of the investigation and any potential/respective disciplinary action(s) taken as a result of the investigative findings.

Exceptions:

1. An exception to the above policy will exist when an individual has not served the minimal amount of time in grade as determined by the date the vacancy is approved to be filled. Candidates will not be promoted to fill a vacancy until the candidate meets the minimum time in grade as outlined in Section II.

References:
Section C-3-3 City Charger
Section C-8-1 City Charter

Rescission:
This policy is effective January 1, 2016+, and rescinds Administrative Policy 3.8.1, 06/01/2013 and will remain in effect until rescinded.

Responsible Department:
Fire Department
January 1, 2016

_____ _____

Dewayne Burk, Fire Chief Date