

RECORD OF ORDINANCES

Ordinance No. 3760

Passed: November 28, 2023

AN ORDINANCE AMENDING CHAPTER 34 EMPLOYMENT POLICIES OF THE CODE OF ORDINANCES OF THE CITY OF WEST CARROLLTON AND REPEALING ANY ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, the City Council has previously established Chapter 34 of the Code of Ordinances in compliance with section 10.01 of the city charter, and;

WHEREAS, it has become necessary to amend several sections of Chapter 34 to bring the chapter up to date with current personnel policies, procedures and practices.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WEST CARROLLTON, MONTGOMERY COUNTY, OHIO, THAT:

SECTION I. Chapter 34: Employment Policies of the Code of Ordinances of the City of West Carrollton be and hereby is amended to read as indicated in Exhibit A, attached hereto.

SECTION II. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION III. This Ordinance shall take effect from and after the earliest period allowed by law.

Passed: November 28, 2023

Attest: Gray Moore
Clerk of Council

[Signature]
Mayor

Effective Date: December 28, 2023

CHAPTER 34: EMPLOYMENT POLICIES

Section

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34.01 Title and purpose

(A) This chapter shall be known as the Personnel Chapter and it shall give effect to and augment the provisions of the City Charter pertaining to personnel. It is the policy of the city as a charter, home-rule-municipality established under the constitution and laws of the state, that this chapter and such rules as may be adopted in accordance with the provisions herein shall supersede all civil service laws passed by the state. This shall be true even when this chapter and such rules are silent on a particular topic which is included in the state civil service laws.

(B) ~~Except as may otherwise be provided in this chapter,~~ **Certain provisions of** this chapter shall only apply to personnel in the nonexempt positions of the city. Nonexempt positions are those which have not been exempted from the civil service of the municipality or the competitive examination requirements. In accordance with the provisions of § 10.02 of the City Charter, the following positions are exempt from the civil service of the municipality and the open competitive examination requirements:

- (1) Members of Council;
- (2) The Clerk of Council;
- (3) The City Manager;
- (4) The Directors of Departments;
- (5) The Secretary to the City Manager;
- (6) The Assistant to the City Manager;
- (7) Members of Boards and Commissions appointed by the Council; advisory committees appointed by the City Manager;
- (8) Those positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character;
- (9) Unskilled laborers;
- (10) Seasonal, provisional, temporary, or part-time employees.

(C) In addition to the positions specified in division (B) above, other positions may be exempted from the civil service or the competitive examination requirements on the determination of the City Manager and the approval by the Personnel Appeals Board.

(D) The City Manager shall appoint a suitably qualified person to serve part or full time as Personnel Officer. The Personnel Officer shall: (1) Conduct recruitment of qualified persons; (2) Prepare, schedule and hold examinations; (3) Create eligible lists from results of examinations; (4) Certify eligibles to appointing officers; (5) Classify positions and establish job specifications; (6) Certify payrolls; (7) Develop and conduct training programs; (8) Prepare and recommend to the City Manager for approval and publication, necessary rules to establish and maintain the merit system in the Municipality; (9) Perform such other duties relating to personnel as

the City Manager may direct. The Personnel Officer may also be known by a different title, such as Personnel Director, Human Resources Manager or Assistant City Manager or any such other designation as the City Manager may determine.

(‘70 Code, § 153.01; amend. Ord. 2297, passed 12-22-81)

§ 34.02 PERMANENT **REGULAR** STATUS.

When this chapter becomes effective, all persons then holding positions not included among those exempted by the city Charter shall have a ~~permanent~~ **regular** status if:

(A) They were employed in positions on the date of passage of this chapter (May 14, 1968) and have served their full probationary period.

(B) They shall serve a probationary period of one year or any other period as may be prescribed by this chapter for the position held. (‘70 Code, § 153.02)

§ 34.03 RECRUITMENT AND SELECTION.

(A) Original appointments and promotions to vacancies to the civil service of the municipality shall be made solely on the basis of merit and fitness demonstrated insofar as practicable by open competitive examinations or other evidence of competence, except where open competitive examinations for particular vacancies may be dispensed with as provided by the City Charter and this chapter.

(B) Each open competitive examination shall be publicly announced by the Personnel Director in such media as ~~he~~ **the Director** may deem expedient. The announcement shall specify the title of the position classification for which the examination is to be held; the time, place, and manner of making application; the closing date for applications; the time and place for the examination; the minimum qualifications for the position as established by the Personnel Director and approved by the City Manager; and any other information deemed pertinent by the Personnel Director.

(C) Application shall be made on the form prescribed by the Personnel Director, and ~~he~~ **the Director** shall conduct such investigation as he may ~~be deem~~ **deemed** necessary to verify the truth of the statements made therein and to determine the qualifications of the applicant. He **The Director** may reject any application which, on its face, indicates that the applicant does not possess the minimum qualifications established for the position classification and may also reject any application which is received after the closing date established for the examination. In addition to the above, the Personnel Director may refuse to examine an applicant or, after an examination, disqualify an applicant from further consideration if the applicant makes a false statement of any material fact, practices or attempts to practice any deliberate deception or fraud in the selection process, or for such other reasons as may be provided in the rules promulgated by the Personnel Director and approved by the City Manager.

(D) All examinations shall be of such a type that will fairly assess the relative abilities and aptitudes of the candidates to efficiently and effectively perform the duties of the position classification for which the examination is given. The examinations may be written, oral, physical, psychological, a demonstration of skill, an evaluation of training and experiences, or any combination thereof. The Personnel Director shall determine the nature of the examinations and the weight to be given to each part. ~~He~~ **The Director** shall see that the examinations are graded, taking care to preserve the anonymity of the candidates in the written portion until grading is completed. ('70 Code, § 153.03; amend. Ord. 2297, passed 12-22-81)

§ 34.04 ELIGIBLE LISTS.

(A) From the results of each entry-level and promotional examination, the Personnel Director shall prepare and certify an eligible list for the positions for which the examination was conducted. All candidates receiving a passing score on the examination are to be ranked on the eligible list in the order of their total scores. In the event two or more candidates receive the same total score on the examination, they shall be placed in the same position on the eligible list and the tie shall be noted.

(B) Reemployment.

(1) In the event it becomes necessary to lay off city employees for any reason, the names of the persons laid off shall be placed on a reemployment eligible list for the classification involved. The names on the list shall be ranked in order of classification seniority and each name shall remain on the list for a maximum period of one year (except as provided in division (2) below) unless such eligibility is extended by the Personnel Director.

(2) Each name on a reemployment eligible list for the classification of police officer, ~~crime prevention officer, or dispatcher~~ shall remain on such list for a maximum period of 15 months unless the eligibility is extended by the Personnel Director.

(C) All other eligible lists shall be valid for a minimum period of one year from the original date of certification unless exhausted prior to that time. The validity of such lists may be extended for an additional period, up to one year, by order of the Personnel Director.

('70 Code, § 153.04; Am. Ord. 2297, passed 12-22-81; Am. Ord. 2463, passed 9-11-84)

§ 34.045 REMOVAL FROM ELIGIBLE LISTS.

(A) If, after an eligible list has been established, it is determined that any candidate whose name appears on the eligible list has obtained ~~his~~ a place thereon by deception or fraud either in the application or in the selection process, or that the candidate does not possess the minimum qualifications established for the position, or that the candidate is subject to disqualification under the provisions of § 34.03 (C), the name of the candidate may be removed from the eligible list by order of the Personnel Director. The Personnel

Director may also remove the name of any candidate who indicates that ~~he is~~ **they are** no longer interested in the position, who declines to be interviewed for the position, or who refuses to accept appointment after being certified. Furthermore, the Personnel Director may remove the name of any candidate whom, after a reasonable effort, ~~he~~ has been unable to ~~be contact~~ **contacted** by mail or phone to determine the candidate's interest in a position.

(B) The Personnel Director may also remove the name of a person from the eligible list if that person has been certified three times to the same department head for the same or similar positions and has not been appointed. (Ord. 2297, passed 12-22-81)

§ 34.05 PROMOTIONAL EXAMINATIONS.

(A) The Personnel Director, subject to the approval of the City Manager, shall designate which classes of positions in the civil service are entry-level positions and which are promotional positions. Such designation shall be based upon an analysis of the relative job requirements as well as an examination of the logical career paths within the organization.

(B) A promotional examination shall be restricted to present employees unless the City Council, on the recommendation of the City Manager, adopts a resolution opening the examination to candidates outside of the municipal service. The promotional examination shall be competitive except where the Personnel Director determines that there are three or less qualified persons who are interested in the position, in which case the examination may be noncompetitive.

(C) Eligibility for promotional examinations shall be determined by the Personnel Director, subject to the approval of the City Manager, after consideration of qualifications and length of service. For the Police Division, eligibility requirements shall include a minimum of 12 months of service in the next lower rank unless otherwise recommended by the Personnel Director and approved by the City Manager.

(D) Where appropriate, promotional examinations shall give consideration to the candidate's record of prior performance and seniority, as may be provided in the rules promulgated by the Personnel Director and approved by the City Manager.

(E) All candidates receiving a passing score on the examination are to be ranked on the promotional eligible list in the order of their total scores. ('70 Code, § 153.05; amend. Ord. 2297, passed 12-22-81)

§ 34.06 CERTIFICATIONS AND APPOINTMENTS.

(A) Whenever a vacancy is to be filled in the civil service of the city, the appropriate department head shall request the Personnel Director to certify the names of the persons standing highest on the applicable eligible list. If no list exists for the particular position classification, the Personnel Director shall schedule an examination at ~~his~~ **the** earliest possible convenience to establish an eligible list.

(B) If the vacancy exists in an entry-level position, the Personnel Director shall certify the names of the top five candidates including ties, remaining on the original appointment eligible list. If more than one position is to be filled, the Personnel Director may certify a list of names that is equal to the number of vacancies plus four, which list shall also include ties. If one or more provisional, probationary or permanent full-time city employee receives a passing score on the examination, the name or names of those employees shall also be certified. When an eligible list is reduced to less than 5 names, or when the list has expired, the Personnel Director may conduct an examination to prepare a new list.

(C) If the vacancy exists in a position to be filled through promotion, the Personnel Director shall certify the names of the top three candidates, including ties, remaining on the promotional eligible list. If more than one position is to be filled, the Personnel Director may certify a list of names that is equal to the number of vacancies plus 2, which list shall also include ties.

(D) If the vacancy exists in a position for which there is a current reemployment eligible list, the Personnel Director shall certify the name of the candidate in the highest position remaining on that list. The reemployment list shall expire or be exhausted before names are certified from any other appointment list pertaining to that position classification.

(E) Whenever a certified eligible indicates ~~his~~ a unwillingness to accept appointment or has otherwise had ~~his~~ their name removed from the eligible list, leaving fewer candidates from which the department head may choose than can normally be certified under divisions (A) through (D) of this section, the Personnel Director shall then certify to the department head the name in the next position on the eligible list.

(F) After receiving the names of those eligible for appointment to a vacancy, the department head shall make ~~his~~ a selection and shall notify the Personnel Director of the person recommended for appointment. Although the responsibility of making the recommendation shall lie primarily with the department head, any such recommendation must be approved by the City Manager, as the appointing authority under the City Charter, before becoming official. The Personnel Director shall see that the person appointed is placed on the payroll and shall restore to the eligibility list the names of the other persons who were certified but not appointed.

('70 Code, § 153.06; amend. Ord. 2193, passed 2-26-80; amend. Ord. 2297, passed 12-22-81)

§ 34.07 TEMPORARY APPOINTMENTS.

Whenever an emergency exists which requires that a vacancy be filled on a temporary basis in order to maintain public services, the appropriate department head may recommend to the City Manager the appointment of a person qualified to perform the duties of the position. On approval of the City Manager, the appointment shall become official. However, no temporary appointment shall be for a period longer than 60 days unless otherwise approved by the City Manager. ('70 Code, § 153.07; amend. Ord. 2297, passed 12-22-81)

§ 34.08 PROVISIONAL APPOINTMENTS.

(A) Whenever a vacancy occurs in the civil service of the city and there is no current eligible list from which a certification can be made, the Personnel Director shall so inform the appropriate department head. If, in the judgment of the department head, it is not expedient to await the establishment of a list, he shall request the Personnel Director to submit to him the application of one or more persons who possess the minimum qualifications established for the position to be filled. On review of the applications, the department head may recommend to the City Manager the appointment of one of the candidates. On approval by the City Manager, the appointment shall become official.

(B) A provisional appointment shall not last longer than three months, during which time an examination shall be given and an eligible list established. The name of the provisional employee shall be certified to the department head along with the names of the other top candidates on the eligible list, provided that the provisional employee receives a passing score on the examination. The probationary period of a provisional appointee subsequently appointed as a probationary employee may be shortened by the length of time spent in a provisional status. ('70 Code, § 153.08; amend. Ord. 2297, passed 12-22-81)

§ 34.09 PROBATION.

(A) With the exception of appointments to positions in the Police Division and Fire Division, employees appointed from original appointment eligible lists and from promotional eligible lists shall serve a minimum probationary period of six months. Employees appointed to positions in the Police and Fire Divisions shall serve a minimum probationary period of 12 months. During the probationary period, the performance and conduct of the employee shall be subject to close scrutiny and evaluation.

(B) A probationary employee may be removed or demoted at any time during the probationary period upon written notice by the City Manager to the employee. Any such removal or demotion shall not be subject to appeal through any grievance procedure or to the Personnel Appeals Board.

(C) A probationary employee shall be granted permanent **regular full-time** status after satisfactory completion of the probationary period. ('70 Code, § 153.09; amend. Ord. 2297, passed 12-22-81)

§ 34.10 ABSENCES, HOURS OF WORK, AND SICK LEAVE.

The Personnel Director may adopt rules prescribing hours of work and the conditions and length of time for which leaves of absence with pay and leaves of absence without pay may be granted. Such rules shall include, but shall not be limited to holidays, personal leave days, vacations, sick leave, injury leave, maternity leave, bereavement leave, civil leave, and military leave. The rules, which shall be effective from and after the time that they are

approved by the City Manager, shall supplement and not be in conflict with any valid ordinances pertaining to such leaves.

('70 Code, § 153.10; amend. Ord. 2297, passed 12-22-81)

§ 34.11 DISCIPLINE.

(A) The tenure of every full-time, ~~permanent~~ **regular** officer, or employee in the nonexempt service of the city shall be during good behavior and efficient service, but any such officer or employee may be removed or otherwise disciplined for just cause, including but not limited to incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of the provisions of the City Charter or the ordinances of the city, violation of the laws of the state or the United States of America, violation of the rules of the City Manager or the Personnel Director or a department head, or any other acts of misfeasance, malfeasance, or nonfeasance in office.

(B) The Personnel Director shall promulgate rules which shall provide elaboration on the reasons for which employees may be removed or otherwise disciplined. Such rules shall be effective from and after the time that they are approved by the City Manager.

(C) Nothing in this chapter shall be construed to limit the right of the city to lay off or separate any officer or employee from the nonexempt service in the event any position is abolished or for lack of work or lack of funds. ('70 Code, § 153.11; amend. Ord. 2297, passed 12-22-81)

§ 34.12 TYPES OF DISCIPLINARY ACTION.

Disciplinary action for full-time, ~~permanent~~ **regular**-officers, or employees in the nonexempt service of the city shall normally consist of one or more of the following, based on the recurrence or magnitude of the violation:

(A) Informal reprimand;

(B) Formal written reprimand which becomes a part of the employee's personnel record;

(C) Suspension from duty without pay for a period of not more than 3 days;

(D) Suspension from duty without pay for a period exceeding 3 days;

(E) Reduction in rank and salary;

(F) Dismissal.

('70 Code, § 153.12; amend. Ord. 2297, passed 12-22-81)

§ 34.13 PROCEDURE IN DISCIPLINARY ACTION.

The Personnel Director shall promulgate rules which shall prescribe the procedure to be followed in applying discipline, including the person or persons responsible for such discipline, and the method of appealing disciplinary actions. Such rules, which shall be effective from and after the time that they are approved by the City Manager, may include any other provisions relative to discipline as may be deemed necessary by the Personnel Director and the City Manager to supplement the provisions of this chapter.

('70 Code, § 153.13; amend. Ord. 2297, passed 12-22-81)

§ 34.14 PERSONNEL APPEALS BOARD.

(A) Any full-time, ~~permanent~~ **regular** officer, or employee in the civil service, who has been suspended in excess of 3 days, reduced in rank, or removed from ~~his~~ **their** position, may request a hearing thereon before the Personnel Appeals Board.

(B) The procedure to be followed in appealing any such disciplinary action to the Personnel Appeals Board, including the time limits for such appeals, shall be as provided in the rules promulgated by the Personnel Director and approved by the City Manager and the rules of the Personnel Appeals Board.

(C) The procedure to be followed on appeal shall be as provided in the rules of the Personnel Appeals Board. The Board shall make its own rules, choose its own officers, and have the authority to subpoena witnesses and to require the production of records.

('70 Code, § 153.14; amend. Ord. 2297, passed 12-22-81)

§ 34.15 REDUCTIONS; LAYOFFS.

(A) In the event it becomes necessary to lay off employees for any reason, the City Manager shall determine the classes of employment in which such layoff shall be made, the number to be laid off, and the duration of such layoff. Employees shall be laid off at the time and in the number specified by the City Manager.

(B) The manner in which any such layoff shall be conducted shall be as provided in the rules promulgated by the Personnel Director and approved by the City Manager. ('70 Code, § 153.15; amend. Ord. 2297, passed 12-22-81)

EMPLOYMENT PROVISIONS

§ 34.20 BLANKET BOND.

The **A** bond **or insurance policy providing similar coverage** for all city employees not otherwise covered by this title shall be in the form of a **minimum** \$5,000 blanket bond, the

premium for which shall be paid by the city. The bond shall be for the protection of the city and the public against loss due to acts or omissions of the city employees. The amount of the bond may be more than \$5,000 for certain employees as determined by the City Manager.

('70 Code, § 155.01; amend. Ord. 2291, passed 10-27-81; amend. Ord. 2297, passed 12-22-81)

§ 34.21 RESIDENCY REQUIREMENTS.

(A) For purposes of emergency response, the Police Chief, Deputy Police Chief, Fire Chief, Fire Captains, Service Director, and Parks and Recreation Director shall reside within a 20 road mile radius of the civic center. This is measured by taking the most direct route from the Civic Center to the employee's residence.

(B) For all other employees, residency within the corporate limits of the city is not required by this section. However, where the availability needs of a particular department or division require that its employees live in proximity to the city, the City Manager may establish regulations governing the distance such employees may live from the boundaries of the city.

(Ord. 3664, passed 2-11-20)

§ 34.215 PREMIUM PAY.

(A) Court time call-in for Mayor's Court shall be compensated at the rate of one and one-half times the normal rate of pay with a minimum of three hours pay, two hours at a pay rate of time and one-half.

(B) Court time call-in for appearances in courts other than Mayor's Court shall be compensated at the rate of one and one-half times the normal rate of pay with a minimum of four and one-half hours pay, three hours at a pay rate of time and one-half.

(C) Any witness fees received as a result of court appearances in connection with city employment shall be turned over to the city within three days of the receipt of such fees.

(D) There shall be no pyramiding of premium pay for the same hours worked.

(Ord. 3254. Passed 12-30-03.)

§ 34.22 OVERTIME PAY.

~~—(A) All employees, except those on salary and platoon shift full-time employees and part-time firefighters, will receive overtime pay at the rate of time and one-half for all hours worked in an active pay status in excess of 40 straight time hours per week.~~

~~(B) Platoon shift full-time employees and part-time firefighters will receive overtime pay at a rate of time and one-half for all hours in an active pay status in excess of 212 hours in a 28-day work cycle.~~

(Ord. 3664, passed 2-11-20)

- (A) All part-time employees, except those on salary and part-time firefighters, will receive overtime pay at the rate of time and one-half for all hours worked in an active pay status in excess of (40) straight time hours per week.
- (B) All full-time employees, except those on salary and platoon shift full-time employees, will receive overtime pay at a the rate of time and one-half for all hours worked in active pay status in excess of eight (8) hours per day or (40) straight time hours per week. There shall be no pyramiding of overtime, which means that hours worked and paid at an overtime premium for daily overtime will not also be compensated when the weekly calculation is performed (paid for twice) because the premium rate has already been calculated on a daily basis.
- (C) Platoon shift full-time employees and part-time firefighters will receive overtime pay at a rate of time and one-half for all hours in an active pay status in excess of (212) hours in a 28-day work cycle.

§ 34.225 COMPENSATORY TIME

- A. All overtime worked shall be compensated, at the employee's election, either at the rate of one-and-one-half times the employee's regular rate in which it was earned or in compensatory time, accrued at the same rate;
- B. At no time may an employee's Compensatory Time bank exceed 32 hours; Platoon shift full-time employees and part-time firefighters bank shall not exceed 48 hours.
- C. Requests for the use of Compensatory Time must be approved by the Department Head or designee and must be made at least 72 hours before the beginning of the period requested by the employee, unless the time period is waived by the Department Head or designee.
- D. Requests for the use of Compensatory Time are limited to one request per pay period. Such requests may be taken in any unit not less than ¼ hour and not more than 16 hours and must be approved in the same manner and timing as vacation time, utilizing a Request for Leave Slip. Platoon shift full-time employees and part-time firefighters shall be permitted to request up to 24 hours of time per pay period.
- E. Employee compensatory time may not be rolled over from one year to the next. All compensatory time shall either be taken or paid in the same payroll year that it is earned on or about December 1st of each year.

F. The City shall not mandate the use of the employees' accrued compensatory time.

G. Compensatory Time shall be considered "hours worked" for overtime purposes.

H. Compensatory Time may not be utilized in the same pay period in which it is earned.

§ 34.23 HOLIDAYS.

(A) The following days are designated as holidays for all full-time employees not covered under bargaining agreements:

New Year's Day

President's Day (third Monday in February)

Good Friday

Memorial Day

Juneteenth

Independence Day

Labor Day (first Monday in September)

Thanksgiving Day

Day after Thanksgiving

Christmas Eve (December 24th)

Christmas Day

Three- **Four** Personal Leave Days

~~(Personal leave days shall be adjusted for any new full-time employee who had a hire date that is later than the end of the second quarter of the payroll year. If hired during the third quarter of the year, they will receive two personal leave days. If hired during the fourth quarter, they will receive one personal leave day.~~

(Personal leave days shall be adjusted for any new full-time employee who had a hire date that is later than the end of the second (2nd) quarter of the payroll year. If hired during the third (3rd) quarter of the year, they will receive three (3) personal leave days. If hired during the fourth (4th) quarter, they will receive two (2) Personal Leave Days.)

(B) Except for platoon shift employees, when any of these days fall on Saturday, Sunday or a scheduled day off for the employee, the City Manager shall determine whether the preceding Friday, the following Monday, or which other day shall be observed as the holiday.

(C) Platoon shift employees shall work their regular tour of duty, regardless of the day on which the holiday falls, and shall receive 12.0 hours straight time of pay for such holiday. Such payment shall be made in the pay period following completion of the 28-day work cycle.

(1) For all such full-time employees, except platoon shift employees, the above days shall be considered as days off with pay unless, in the opinion of the department head or his designee, failure to work on such holidays would impair the public service. Hourly employees, except platoon shift employees, who are required to work on a holiday, shall be compensated at the rate of time and one-half for all hours worked in addition to holiday pay.

(2) Payment shall be made for such holiday pay, provided the employee works his or her last scheduled shift preceding the holiday and his or her first scheduled shift following the holiday, or is otherwise excused by the department head or his designee from the scheduled assignments during the holiday week due to sick leave or vacation leave. An employee on sick leave status on a holiday shall receive holiday pay and not sick leave pay for that day.

(3) Except for platoon shift employees, if a holiday occurs during an employee's vacation, the employee shall be entitled to an additional day of vacation to compensate for the holiday.

(4) (a) Platoon shift employees who work a complete shift on a holiday will receive an additional 6.0 hours of straight time pay. Pay will be in addition to the holiday pay of 12.0 hours of straight time provided in division (A)(3) of this section. Such payment shall be made in the pay period following completion of the 28-day work cycle.

(b) All part-time firefighters who work on a holiday will receive holiday pay at time and a half for all hours worked. Such payment shall be made in the pay period following completion of the 28-day work cycle.

(Ord. 3664, passed 2-11-20)

§ 34.24 COMPREHENSIVE MAJOR MEDICAL INSURANCE.

(A) The city shall make available to all full-time employees covered hereunder a group health care program, which shall consist of at least one health care plan. If the city offers more than one health care plan in the group health care program, then the city shall designate one of the health care plans as the Core Plan, taking into consideration the recommendation of the Insurance Committee as described below. If the city offers one

health care plan in the group health care program, then that plan shall be designated as the Core Plan.

(1) In accordance with the Affordable Care Act, the city shall make available the same health plans to all part-time employees assigned to a schedule of 30 or more hours per week and to all variable hour part-time employees working an average of 30 or more hours per week during their designated measurement period.

(2) The city will contribute 85% of the Core Plan premium toward the employee's insurance premium cost. The employee will be responsible for the remaining premium cost.

(3) If the city offers a High Deductible Health Plan (HDHP) with a Health Savings Account (HSA), then the city shall annually contribute 65% of the employees' annual HDHP deductible amount to the employees' HSA. This contribution to the employees' HSA will be paid as follows:

(a) The first half of the contribution shall be paid into the employees' HSA in January.

(b) The remaining half of the contribution will be paid in equal installments on each remaining pay date for the year.

(4) If an employee encounters a hardship that will exhaust all of the employee's HSA funds, then the employee may request an emergency distribution of the remaining annual contribution. Such a request shall be made to the Human Resources Manager, and the request will be approved at the discretion of the City Manager. All health care costs beyond the city's 85% contribution to the premium of the Core Plan and the city's 65% deductible contribution to the HSA (when applicable as described above) shall be paid by the employees.

(B) Each employee must elect to subscribe to one of the plan options before insurance payments for same will be made by the city. In the event the employee should elect not to subscribe to a plan, additional compensation shall not be paid to the employee. Employees not electing to subscribe to a plan ~~MUST sign a waiver form.~~ **officially waive coverage.**

(Ord. 3664. passed 2-11-20)

§ 34.25 GROUP LIFE INSURANCE.

The city shall furnish a life insurance policy of the amount and type and with the company as they shall determine. The policy premium shall be paid by the city and in the event an employee should elect not to subscribe to the plan, additional compensation shall not be paid to the employee and the pay scale provided for in the personnel classification ordinance shall be the full and total compensation to be paid to the employee. The life insurance mentioned therein, shall apply to ~~all regular~~ full-time employees only. Employees not electing to subscribe to the plan must ~~sign a waiver form~~ **officially waive coverage.** An employee shall become eligible for the insurance upon being hired in full-time, non-temporary status.

(Ord. 3664, passed 2-11-20)

§ 34.255 ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE.

The city shall furnish an accidental death and dismemberment (AD&D) insurance policy for all full-time employees in ~~the an~~ amount of \$20,000 and of the type with the company as the city shall determine, or in the amount and of the type as agreed to by properly executed labor contracts. The policy premium shall be paid by the city. In the event an employee should elect not to subscribe to the plan, additional compensation shall not be paid to the employee, and the pay scale provided for in the personnel classification ordinance shall be the full and total compensation to be paid to the employee. Employees not electing to subscribe to the plan must sign a waiver form **officially waive coverage**. An employee shall become eligible for the insurance upon being hired in a full-time, non-temporary status.

(Ord. 3182. Passed 3-13-01.)

§ 34.26 INJURY LEAVE AND WAGE CONTINUATION PAY.

~~(A) Injury leave and wage continuation for employees who are injured or who contract an occupational disease as determined by the Industrial Commission, while in the course of employment. Injury leave represents a continuation of the employee's regular wages (wage continuation) in lieu of receiving workers' compensation benefits.~~

~~—(B) Probationary employees, as well as regular full-time employees, may receive injury leave/wage continuation for up to 26 weeks in connection with an occupational illness or injury, but only if the injury is certified by the city and/or deemed compensable by the Industrial Commission of Ohio. Once the 26 weeks of injury leave has been exhausted, the employee shall use accumulated sick leave and vacation leave credits if additional leave time is needed. After the exhaustion of injury, sick, and vacation leave, the employee may be eligible for workers' compensation benefits.~~

~~—(C) Receipt of wage continuation payments will be in lieu of workers' compensation lost time benefits. After 26 weeks, the city will require the employee to use accumulated sick and vacation leave credits, and then may request that the employee commence payment from the Bureau of Workers' Compensation.~~

(Ord. 3664, passed 2-11-20)

At the discretion of the City Manager or his/her designee, as provided by Ordinance, leave with pay may be granted for service-connected occupational illness or injury, as determined by an investigation by the Human Resources Department. Compensation for lost time received by the employee from the Industrial Commission shall be deposited with the Finance Director for such times as the employee received full wages from the City.

§ 34.27 SICK LEAVE CREDIT.

(A) All provisional, probationary, and regular full-time employees shall accrue sick leave credits at the rate of 4.616 hours of sick leave credit for every 80 hours of completed regularly scheduled work. An employee shall accrue sick leave credits at the normal rate during any leave with pay, except while on extended sick leave (see division (C) of this section). However, those additional sick leave credits earned by an employee while on leave with pay shall not be available for the employee's use until the employee has returned to work. An employee will not be considered returned to work until they have been back to work for a period of 30 days or more. An employee shall not accrue sick leave credits while on suspension without pay, unpaid leave, or absence without leave. Employees on paid or unpaid FMLA leave will be treated in the same manner as other employees on leave.

(1) For example, an employee on FMLA leave with pay (e.g. using vacation or sick pay) will be entitled to accrue sick leave credits at the normal rate during his or her paid leave status. The same rules governing employees on extended sick leave, as described in division (C) of this section, will also apply to employees on FMLA leave. If, on the other hand, an employee is absent from work on unpaid FMLA leave, he or she will not be entitled to accrue sick leave credits.

(2) Except for platoon shift employees, the maximum accumulation of sick leave credits by employees covered hereunder shall be 1,500 hours. The maximum accumulation for platoon shift employees shall be 2,100 hours. An employee who reaches the maximum allowable accrual on sick leave hours will cease to accrue sick leave hours until their balance has dropped below the maximum allowable accumulation.

(3) Platoon shift employees shall accrue sick leave credit at the rate of 6.462 hours for each two weeks pay period. (This is the same rate of accrual as other employees recognizing the greater number of hours worked on a 24/48 schedule as allowed under the FLSA.) This rate is effective as of July 1, 1990.

(B) (1) An employee who has had prior service with another public agency may receive credit for all unused sick leave (up to a maximum of 90 days or its hourly equivalency for platoon shift employees) credited to the employee by such public agency provided that he or she is employed by the City of West Carrollton within one year of his or her separation from employment with such public agency. If the employee has had prior service with more than one public agency, only those accumulated and unused sick leave credits recognized by the most recent public agency shall be eligible for transfer to the city. The employee, within one year of hire by the City of West Carrollton, must furnish a properly certified letter from the prior public employer stating the amount of unused sick leave credits accumulated by the employee at the time of his or her separation from employment. Accumulated and unused sick leave so certified shall be credited to the employee's record as of the date received by the City of West Carrollton.

(2) An employee who is separated from the city service through resignation, layoff, or retirement, and then later reinstated, shall receive credit for all previously unused sick leave, provided such reinstatement occurs within 18 months of the initial separation. If the

employee previously received reimbursement for such accumulated sick leave, as provided in division (E), (F), and (G) of this section, reinstatement of the accumulated sick leave shall not be permitted.

(C) Salaried employees with at least one year of service shall be eligible for extended illness or injury pay at one-half their regular salary for up to 60 work days, after their sick leave and injury leave have been depleted. Extended illness or injury shall be interpreted to mean an illness or injury with doctor's certificate, of an uninterrupted continuous nature. Extended illness or injury may occur more than one time during a one-year period, but must be of a different, unrelated nature.

(D) (1) Except for platoon shift employees, accumulated and unused sick leave in excess of 720 hours as of December 31st of each year may be converted by any regular full-time employee not covered under a bargaining agreement to vacation leave at the rate of three hours of accumulated sick leave for one hour of vacation leave.

A maximum of 40 such vacation hours may be acquired by an employee through such conversion in any one calendar year. To affect such a conversion, an employee shall notify the City Manager in writing of the number of days to be converted, whereupon such conversion may be approved. In the event an employee converts sick leave to vacation leave as provided herein, such vacation leave shall not be subsequently reconverted to sick leave, unless the conversion is elected within the same calendar year and is supported by a medical certificate.

(2) Accumulated and unused sick leave for platoon shift employees in excess of 1,008 hours as of December 31st of each year, may be converted by any such regular full-time employee not covered by a bargaining agreement to vacation leave at the rate of three hours of accumulated sick leave for one hour of vacation leave. A maximum of 168 sick leave hours may be converted to 56 hours of vacation leave in any one calendar year. To affect such a conversion, an employee shall notify the City Manager in writing of the number of days to be converted, whereupon such conversion may be approved. In the event an employee converts sick leave to vacation leave as provided herein, such vacation leave shall not be subsequently reconverted to sick leave, unless the conversion is elected within the same calendar year and is supported by a medical certificate.

(E) A full-time employee not covered under a bargaining agreement hired before January 1, 1990 may convert any accumulated and unused sick leave benefits existing at the time of the employee's retirement under the state retirement system or at the time of their early retirement (where the sum of employee's age plus years of credited service equals or exceeds 70 to cash payment at the following rate:

(1) For accumulated and unused sick leave days up to a maximum of 720 hours (90 days), conversion at the rate of two sick leave hours equal to one cash payment hour.

(2) For accumulated and unused sick leave days in excess of 720 hours (90 days) up to a maximum of 1,200 hours, conversion at the rate of one sick leave hour equal to one cash payment hour.

(3) For accumulated and unused sick leave days in excess of 1,200 hours up to a maximum of 1,500 hours, conversion at the rate of three sick leave hours equal to one cash payment hour.

(4) The reference to days as set forth herein shall be converted to the hourly equivalence for platoon shift employees.

(F) A full-time employee not covered under a bargaining agreement hired after January 1, 1990, may convert any accumulated and unused sick leave benefits existing at the time of the employee's retirement under the state retirement system or at the time of their early retirement (where the sum of employee's age plus years of credited service equals or exceeds 70 to cash payment at the following rate:

(1) For accumulated and unused sick leave days up to a maximum of 1,500 hours, conversion at the rate of three sick leave hours equal to one cash payment hour.

(2) The reference to days as set forth herein shall be converted to the hourly equivalence for platoon shift employees.

(G) Except for platoon shift employees, a regular full-time employee who has been employed a minimum of six months and uses 32 or less sick hours between during the previous payroll year of any given year will be eligible for the following incentive:

(1) Any employee who has utilized 32 or less hours of sick time will be awarded a cash incentive payment of \$150 no later than January 31st of the next year.

(2) Any employee who has utilized 24 or less hours of sick time will be awarded a cash incentive payment of \$300 no later than January 31st of the next year.

(3) Any employee who has utilized 16 or less hours of sick time will be awarded a cash incentive payment of \$500 no later than January 31st of the next year.

(4) Any employee who has perfect attendance for the year will receive one extra personal leave day in addition to the cash incentive payment of \$500. Both will be reflected no later than January 31st of the next year.

Vacation leave and personal leave will not count as missed work for the purposes of the attendance incentive.

(H) All regular full-time platoon shift employees who has been employed with the city for a minimum of six months and uses 48 or less sick hours during the previous payroll year of any given year will be eligible for the following incentive:

(1) Any employee who has utilized 48 or less hours of sick time will be awarded a cash incentive payment of \$150 no later than January 31st of the next year.

(2) Any employee who has utilized 36 or less hours of sick time will be awarded a cash incentive payment of \$300 no later than January 31st of the next year.

(3) Any employee who has utilized 24 or less hours of sick time will be awarded a cash incentive payment of \$500 no later than January 31st of the next year.

(4) Any employee who has perfect attendance for the year will receive 12 extra personal leave hours in addition to the cash incentive payment of \$500. Both will be reflected no later than January 31st of the next year. Vacation leave and personal leave will not count as missed work for the purposes of the attendance incentive.

(I) Except for platoon shift employees, employees who experience 48 or more hours of sick leave usage during a 12-month period may be subject to the following procedure:

(1) On the request for the 48th hour of sick leave usage and for each subsequent sick leave request within a 12-month period, the department director may counsel the employee regarding absenteeism. Usage will be calculated during the preceding 12 months from the date of the most recent absence and not on a calendar year. A written record of the counseling will be documented on an "Excessive Absenteeism Counseling" Form and signed by the employee. Distribution of the record will be to the department director, the employee, and the employee's personnel file (original). Sick leave absences for which the employee provides a doctor's note will not be included in the 48 hours of sick leave usage for purposes of this section.

(2) If after formally counseling the employee, the department director feels that the employee is continuing to experience excessive absenteeism, he or she may issue a "Letter of Reprimand" to the employee. The employee is to sign the document acknowledging receipt thereof. The original "Letter of Reprimand" will be placed in the

employee's personnel file with a copy given to the employee.

(3) If after issuing the letter of reprimand and it is determined that the employee continues to abuse the sick leave policy, that employee may be subject to progressively more disciplinary action.

(J) For platoon shift employees, division (I) of this section shall apply to employees who experience 72 or more hours of sick leave usage during a 12-month period.

(Ord. 3664, passed 2-11-20)

§ 34.28 VACATIONS.

(A) (1) Regular full-time non-platoon employees not covered under bargaining agreements shall accrue vacation credits on an accrual basis consistent with the vacation accrual rates shown below. Each employee shall be subject to a maximum limit on the amount of vacation hours that may be carried on their individual account. Regular full-time employees shall maintain their vacation credit level below their maximum unless they have approval of the City Manager.

Length of Service	Vacation Accrual Rate
Less than five years	3.08 hours per pay period

(136 hrs. max. accumulation)

After five years but less — 3.385 hours per pay period
than six years — (144 hrs. max. accumulation)

After five but less 5.231 hours per pay period
than ten years (192 hrs. max. accumulation)

After six years but less — 4.92 hours per pay period
than twelve years — (192 hrs. max. accumulation)

After twelve ~~ten~~ years but less 5.539 hours per pay period
than fifteen years (208 hrs. max. accumulation)

After fifteen years but less 6.154 hours per pay period
than twenty years (224 hrs. max. accumulation)

After twenty years or more 7.077 hours per pay period
(240 hrs. max. accumulation)

(2) Regular full-time Fire Captains and full-time firefighters shall accrue vacation credits on an accrual basis consistent with the annual totals below. Each employee shall be subject to a maximum limit on the amount of vacation hours that may be carried on his or her individual account. Employees shall maintain their vacation credit level below their maximum unless they have approval of the City Manager.

Length of Service Vacation Accrual Rate

Less than five years 4.312 hours per pay period
(156.8 hrs. max. accumulation)

After five years but less — 4.739 hours per pay period
than six years — (201.6 hrs. max. accumulation)

After five but less 7.323 hours per pay period
than ten years (268.8 hrs. max. accumulation)

After six years but less — 6.892 hours per pay period
than ten years — (268.8 hrs. max. accumulation)

After ten years but less 7.7546 hours per pay period
than fifteen years (291.2 hrs. max. accumulation)

After fifteen years but less 8.6156 hours per pay
than twenty years period (313.6 hrs. max. accumulation)

After twenty years or more 9.9078 hours per pay period

(336 hrs. max. accumulation)

(3) Reconciliation of hours. Each year in following the final pay period of the year, employees who have accrued vacation hours in excess of the maximum allowable accumulation will have their accrued vacation hours adjusted to an amount not to exceed the allowable accumulation. All hours exceeding the allowable accumulation will be forfeited at that time. The actual reconciliation date will coincide with the final day of the payroll year.

~~(4) Pay out. Each year, the City Manager may approve the payout of a portion of an employee's accumulated vacation pay that has been placed in the separate vacation pay bank. Any such conversions shall be at the rate of pay in effect at the time the hours were placed in the bank. Any decision on vacation conversion by the City Manager shall be his or her exclusive management right subject to available appropriations and shall be final.~~

~~(5)~~ (4) Retirement. At the time an employee has declared their retirement date in writing, the City Manager may elect to pay out the employee's accumulated vacation pay in installments over a period which includes two payroll years. Installment payments shall be at the discretion of the City Manager based on available budget appropriations, and upon mutual agreement of the employee.

(B) When a regular full-time employee hired before January 1, 1994, completes the minimum number of years of service to qualify for the next higher level in the vacation schedule, the employee shall begin on their anniversary date accruing vacation at the higher rate to which they are entitled and receive a lump sum of vacation hours equal to the differential of the two levels.

(C) When a regular full-time employee hired after January 1, 1994, completes the minimum number of years of service to qualify for the next higher level in the vacation schedule, the employee shall begin on their anniversary date accruing vacation at the higher rate to which they are entitled.

(D) (1) A regular full-time employee of the city, ~~hired after January 1, 1985~~, who was previously employed by a political subdivision, may claim credit for the service time recognized by such political subdivision for the purpose of granting vacation leave, provided that he or she is employed by the City of West Carrollton within one year of his or her separation from employment with such political subdivision.

(2) To receive credit, the employee, within one year of the date of hire by the City of West Carrollton, must furnish a properly certified letter from the previous employer stating the length of service recognized by said employer for vacation purposes. Service time so certified shall be credited to the employee's record as of the date received by the City of West Carrollton. Service time recognized by the immediately preceding employer only will be honored by the city.

(Ord. 3664, passed 2-11-20)

§ 34.29 JURY DUTY.

An employee required to serve on a jury before a court empowered by law to require such service, shall be excused from work for the time required for such service and shall be paid ~~his~~ **their** regular hourly rate less ~~his~~ jury pay, provided ~~he~~ **the employee** notifies ~~his~~ **the** department **director or designee** three days prior to such jury service date.

(Ord. 3664, passed 2-11-20)

§ 34.30 MILITARY LEAVE.

An employee shall be granted paid military leave not to exceed three days, or one tour of duty for platoon shift employees, in order to report for ~~his~~ **a** physical examination for compulsory military service in the Armed Forces of the United States. An employee shall be granted paid short-term military leave not to exceed 31 calendar days per year for active military service. The City Manager may approve longer paid leaves of absence in the event an employee's reserve or national guard unit is called into action by the President of the United States or Governor of Ohio, respectively. The employee shall be paid their regular hourly rate, less the amount paid them for their military service by the Armed Forces. Such paid leave shall not affect the right of the employee to ~~his~~ **their** regular annual vacation.

(Ord. 3664, passed 2-11-20)

§ 34.31 PAY PERIOD.

The pay period shall be from midnight Sunday to midnight Sunday for all city employees. Pay checks shall be on a biweekly basis. A 28-day work cycle is hereby established for all platoon shift employees, commencing on a date determined by the City Manager.

(Ord. 3664, passed 2-11-20)

§ 34.32 SUPPLEMENTAL RULES.

The City Manager and Personnel Director are authorized to adopt such rules and regulations as they deem are necessary to govern the personnel system of the city. Such rules and regulations shall not be in conflict with the City Charter or this chapter.

(Ord. 2001, passed 4-12-77; amend. Ord. 2297, passed 12-22-81)

§ 34.33 BEREAVEMENT LEAVE.

(A) A regular full-time employee not covered under a collective bargaining agreement will be granted up to five days, or up to two tours of duty for platoon shift employees, of bereavement leave as necessary, not deducted from accumulated sick leave, in the event of

the death of the employee's spouse, child, parent, parent-in-law, step-child, step-parents, step-parent-in-law, brother or sister.

(B) (1) A regular full-time employee not covered under a collective bargaining agreement will be granted up to three days, or up to one tour of duty for platoon shift employees, of bereavement leave as necessary, not deducted from accumulated sick leave, to attend the funeral of a member of the employee's family as defined below:

- (a) Grandparent;
- (b) Grandchild;
- (c) Step-Grandparent;
- (d) Brother-in-Law;
- (e) Sister-in-Law;
- (f) Son-in-Law;
- (g) Daughter-in-law; or

(h) Other members of the employee's immediate family residing in the employee's household.

(2) This provision is not to be interpreted as an automatic three days or one tour of duty off with pay, especially if appropriate arrangements can be made in a lesser amount of time. In those situations where attendance at the funeral necessitates extended out-of-state travel, the employee may use up to two days or its hourly equivalency for platoon shift employees of accumulated sick leave, subject to the approval of the City Manager **or designee**, for the extended travel. Such time off may be in addition to the time off provided above.

(C) A regular full-time employee not covered under a collective bargaining agreement will be granted up to three days, or up to one tour of duty for platoon shift employees, of unpaid leave to attend the funeral of a member of the employee's immediate family not included in the definitions set forth herein, **subject to the approval of the City Manager or designee**.

(Ord. 3664, passed 2-11-20)

~~§ 34.34 EDUCATIONAL INCENTIVE PAY.~~

~~—(A) Regular full-time employees specified in division (C) of this section who possess an Associate's Degree or Bachelor Degree in a job-related degree program and was approved by the City Manager as of December 31, 2009, shall be eligible for educational incentive pay. (The degree must be from an accredited or approved college, university, or technical school.)~~

~~—(B) Regular full-time employees who satisfy the above criteria shall receive annual educational incentive pay in the amount of \$200 for an approved Associate Degree and \$400 for an approved Bachelor Degree. The incentive pay shall be limited to a maximum of one degree per person. The incentive pay shall be paid annually with the first pay in December.~~

~~—(C) Full-time regular employees in the following classifications shall be eligible for educational incentive pay upon satisfying the above criteria:~~

- ~~—(1) Account Analyst~~
- ~~—(2) Clerk of Courts~~
- ~~—(3) Budgetary Accountant~~
- ~~—(4) Building & Zoning Inspector~~
- ~~—(5) Chief Code Enforcement Officer~~
- ~~—(6) General Maintenance Supervisor~~
- ~~—(7) Secretary~~
- ~~—(8) Secretary to the City Manager~~
- ~~—(9) Street & Refuse Superintendent~~
- ~~—(10) Water & Sewer Supervisor~~
- ~~—(11) Utility Superintendent~~
- ~~—(12) Fire Captain~~
- ~~—(13) Firefighter~~

~~{Ord. 3646, passed 4-9-19}~~

§ 34.341 ~~34.34~~ REIMBURSEMENT FOR LOST OR DAMAGED PERSONAL PROPERTY.

(A) General restrictions.

(1) Under normal circumstances, the city will not accept responsibility for loss of or damage to an employee's personal property whether it is lost or damaged while on or off duty. The city will not in any instance assume responsibility for replacement or repair of an item which exceeds \$200.

(2) Damage to or loss of articles or possessions which are brought to work by an employee for his **their** own personal satisfaction (~~radios, tape players, wireless speaker, smart watch/fitness tracker, iPod's~~ and the like) will not be reimbursed under any circumstance. Furthermore, no reimbursement shall be made for any loss or damage resulting from an employee's misconduct.

(B) Provisions for reimbursement.

(1) Reimbursement may be made for loss of or damage to an employee's personal property which:

- (a) Occurs as a direct result of the employee actually performing ~~his~~ their duties; or
- (b) Is not a result of employee negligence.

(2) Requests for reimbursement are to be submitted in writing to the appropriate department head stating the following.

- (a) What was damaged.
- (b) When the damage occurred (date and time).
- (c) Where the damage occurred (location).
- (d) What happened.
- (e) Attach estimates to repair or replace the damaged item.

(3) These requests must then be forwarded to the ~~Assistant City Manager~~ **Personnel Director or designee**. The claim may then be forwarded to the Law Director, who may then determine the validity of the claim and make a recommendation to the City Manager as to the disposition of the claim including the amount of reimbursement, he considers appropriate, if any. The City Manager will then determine the final disposition of the claim.

(4) When reimbursement is authorized, it will be limited to the actual cost of repairs or reasonable replacement costs, taking into consideration the original cost of the item, not to exceed \$200.

~~(C) The provisions of this section shall be retroactive to June 29, 1985.~~

~~(Res. 16-85, passed 11-26-85)~~

§ ~~34.342~~ **34.341** TUITION REIMBURSEMENT.

(A) Regular full-time regular employees covered hereunder may receive reimbursement for the tuition for job-related courses. Any employee desiring to receive such reimbursement must receive approval from the department head and the City Manager prior to enrolling in the course or courses.

(B) The payment of tuition reimbursement shall be subject to the following guidelines:

(1) The course or courses must be taken from an accredited or approved college, university, secondary school, technical institute, business institute, or trade school.

(2) The course or courses must be directly related to the employee's current position or a promotional position for which the employee is eligible, or must be part of a degree

program related to the employee's current position or a promotional position. The employee must submit an outline of their degree course work and gain approval for participation in the reimbursement program from the City Manager. Submissions must be prior to starting any course work and prior to city budget hearings held each year.

(C) The city will pay 100% in tuition reimbursement for any course that a member passes up to the maximum amount stipulated in division (D) of this section. Reimbursement will be made within 30 days following the conclusion of the course work, and after submission by the employee of documents showing completion and passing grades.

(D) The maximum amount which an employee covered hereunder can receive in any one calendar year for tuition reimbursement shall be ~~\$1,500.~~ **\$3,000**

(E) An employee covered hereunder who terminates employment with the city within two years after completing a course or courses under the tuition reimbursement program shall refund to the city all money received for courses taken within two years of the employee's termination date. The amount to be refunded may be withheld from any termination pay due the employee. Employees whose services are terminated by the city will not be required to make a refund.

(Ord. 3664, passed 2-11-20)

§ ~~34.343~~ **34.342** DEFERRED COMPENSATION.

The deferred compensation plan of the ICMA Retirement Corporation is adopted by reference as fully as if set out at length herein. This plan permits all eligible employees of the city to defer a portion of their compensation. A copy of the plan is on file in the office of the ~~City Clerk.~~ **Finance Director.**

(Res. 5-86, passed 4-8-86)

§ ~~34.344~~ **34.343** PICK UP OF CONTRIBUTIONS.

(A) ~~Effective May 17, 1992,~~ **The** full amount of the statutorily required contributions to the Public Employees Retirement System of Ohio and the Police and Firemen's Disability and Pension Fund of Ohio shall be withheld from the gross pay of each person within any of the classes established in division (C) of this section and shall be picked up (assumed and paid to the Public Employees Retirement System of Ohio and the Police and Firemen's Disability and Pension Fund of Ohio) by the city. This pick up by the city is, and shall be designated as, Public Employee contributions and shall be in lieu of contributions to the Public Employees Retirement System of Ohio and the Police and Firemen's Disability and Pension Fund of Ohio by each person within any of the classes established in division (C).

No person subject to this pick up shall have the option of choosing to receive the statutorily required contributions to the Public Employees Retirement System of Ohio and

the Police and Firemen's Disability and Pension Fund of Ohio directly instead of having it picked up by the city or of being excluded from the pick up.

(B) The city shall, in reporting and making remittances to the Public Employees Retirement System of Ohio and the Police and Firemen's Disability and Pension Fund of Ohio report that the public employee's contribution for each person subject to this pick up has been made as provided by the statute.

(C) The pick up by the city provided by this section shall apply to all persons who are full time administrative or police bargaining unit employees of the city who are or become contributing members of either the Public Employees Retirement System of Ohio and the Police and Firemen's Disability and Pension Fund of Ohio.

(D) The city's method of payment of salary to employees who are participants in the pick up program is hereby modified as follows, in order to provide for a salary reduction pick-up of employee contributions to the Public Employees Retirement System of Ohio and the Police and Firemen's Disability and Pension Fund.

(E) The total salary for each employee participating in the pick up program shall be the salary otherwise payable under the city's policies. Such total salary of each employee shall be payable by the city in two parts: deferred salary and cash salary. An employee's deferred salary shall be equal to that percentage of that employee's total salary which is required from time to time by the Public Employees Retirement System of Ohio and the Police and Firemen's Disability and Pension Fund to be paid as an employee contribution by that employee, and shall be paid by the city to these funds on behalf of that employee as a pick-up and in lieu of the employee contribution otherwise payable by that employee. An employee's cash salary shall be equal to that employee's total salary less the amount of the pick-up for that employee, and shall be payable, subject to applicable payroll deductions, to that employee. The city shall compute and remit its employer contributions to the Retirement System based upon an employee's total salary. The total combined expenditures of the city for such employees' total salaries payable under applicable city policies and the pick-up provisions of this section shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

(F) ~~Effective April 19, 1993,~~ **The** pick up by the city provided by this section shall apply to all persons who are full-time employees of the West Carrollton Independent Employees Association bargaining unit who are, or become, contributing members of the Public Employees Retirement System of Ohio.

(G) The Finance Director is hereby authorized and directed to implement the provisions of this section to institute the pick up of the statutorily required contributions to the Public Employees Retirement System of Ohio and the Police and Firemen's Disability and Pension Fund of Ohio for those persons reflected in divisions (C) and (F) herein so as to enable them to obtain the result in federal and state tax deferments and other benefits.

(Ord. 2856, passed 4-14-92; amend. Ord. 2894, passed 3-9-93)

§ ~~34.345~~ **34.344** PURCHASE OF SERVICE CREDIT IN THE PUBLIC EMPLOYEES RETIREMENT SYSTEM.

(A) ~~Effective September 1, 1997,~~ **Employees** of the city may choose to purchase additional service credit, tax-deferred, and the city shall withhold the required service credit deduction from the gross pay of each person who elects to do so and shall pick up (assume and pay) such deduction to the Public Employees Retirement System of Ohio. A person electing this pick-up deduction shall not have the option of choosing to receive the payroll deduction directly instead of having this deduction picked up by the city. Members of the Public Employees Retirement System of Ohio who have elected to participate in this plan of tax-deferred payroll deduction cannot increase, decrease, or terminate the amount of the pick-up deduction.

(B) The pick-up deduction by the city as provided by this section shall apply to any city employee who is a contributing member of the Public Employees Retirement System of Ohio, and who elects to use this tax-deferred option for past service credit payments.

(C) The Finance Director is hereby authorized and directed to implement the provisions of this section to affect the pick up of the payroll deduction for the purchase of additional service credit to the Public Employees Retirement System of Ohio for those persons choosing to do so as set forth in this section.

(Ord. 3057, passed 6-24-97)

COLLECTIVE BARGAINING

§ 34.35 DEFINITIONS.

For the purposes of §§ 34.35 through 34.42 the following words and phrases shall have the following meanings ascribed to them respectively.

(A) CHARTER. The Charter of the City of West Carrollton, as amended from time to time.

(B) CITY MANAGER. The Manager appointed by the city Council as provided in the city Charter.

(C) COUNCIL. The legislative body of the city.

(D) CONFIDENTIAL EMPLOYEES. Employees who in the usual course of their duties have access to confidential information concerning administrative, financial, personnel, or legal matters of the city, **or who is privy to the decision-making process of city management affecting employee relations,** subject to use by the city in collective bargaining.

(E) DIRECTOR. The administrator of personnel matters of the city and ~~his~~ **their** senior assistants, as designated by the City Manager.

(F) EMPLOYEE. Any person employed by the city, except:

- (1) The Mayor and members of the Council;
- (2) All employees in exempt positions, except those enumerated in § 10.02(9) of the Charter;
- (3) Employees within their probationary period;
- (4) Part-time (other than regular part-time), temporary, casual, and seasonal employees;
- (5) Confidential employees, management employees, professional employees, and supervisory employees, as defined herein.

(G) EMPLOYEE ORGANIZATION. Any organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with the city in matters concerning wages, hours, fringe benefits, and working conditions, and which has registered with the city in accordance with the provisions of § 34.36, or is recognized as an employee organization under the provisions of § 34.37.

(H) IMPASSE. The failure of the parties to an existing agreement to achieve agreement 30 days prior to the expiration date thereof, or the failure of the city and an employee organization to reach agreement on an initial agreement within 90 days after negotiations have commenced.

(I) MANAGEMENT EMPLOYEE. A department director, ~~his~~ **their** chief assistant, and other positions as designated from time to time by the City Manager.

(J) NEGOTIATE. The mutual obligation of the city and the duly authorized representatives of a recognized employee organization to negotiate in good faith in order to freely exchange information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation.

(K) PROFESSIONAL EMPLOYEE. Any employee engaged in work which is predominantly intellectual, involving the consistent exercise of discretion and judgment in its performance, and requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship; or an employee who has completed the courses of specialized intellectual instruction, and is performing related work under supervision of a professional person to qualify himself to become a professional employee.

(L) RECOGNIZED EMPLOYEE ORGANIZATION. An employee organization which has been certified pursuant to the provisions of § 34.36, as representing the employees in a particular representation unit.

(M) REPRESENTATION UNIT. A unit of city employees established pursuant to the provisions of § 34.37 **for the purpose of establishing the employee classifications which will be the subject of a particular negotiation.**

(N) SUPERVISORY EMPLOYEE. An individual:

(1) (a) Whose primary duty consists of the management of the city or of a customarily recognized department or subdivision thereof, or the customary and regular direction of the work of 2 or more other employees therein, or

(b) Who does not devote more than 20% of his **their** hours of work to activities which are not directly or closely related to the performance of work described in division (N) (2) of this section, provided that the requirements of this division shall not apply in the case of an employee who is in sole charge of an independent activity or a physically separated establishment; or

(2) Who has some or all of the following responsibilities in the interest of the city: to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend action, if, in connection with the foregoing, exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Ord. 2051, passed 11-22-77)

§ 34.36 REGISTRATION PROCEDURE PRIOR TO RECOGNITION.

(A) Employee organizations shall register, in the manner hereinafter set forth, with the director prior to representing their membership in their employee relations with the city.

(B) No employee organization shall exercise any rights under the provisions of §§ 34.35 through 34.42 unless it has registered with the director.

(C) The registration shall consist of:

(1) The name and address of the employee organization;

(2) A list of the officers and principal representatives of the employee organization, with a statement of their authority to bind the employee organization in contractual matters;

(3) A statement that the employee organization has, as one of its primary purposes, the function of representing employees in their employee relations with the city;

(4) The designation of 2 or more persons and their addresses to whom notice to the employee organization for any purpose may be given; and

(5) A statement that the employee organization has no restriction on membership based on race, color, creed, national origin, sex, or citizenship.

(D) Any change in the registration shall be reported in writing to the director within 30 days of the occurrence of the change.

(Ord. 2051, passed 11-22-77)

§ 34.37 PROCEDURES FOR ESTABLISHING REPRESENTATION UNITS.

(A) Any employee organization desiring to represent employees in a representation unit, or anyone seeking to decertify an employee organization, shall first submit to the director a petition in a form as the director may prescribe, together with evidence that at least 30% of the total number of employees in the proposed representation unit are interested in representation or decertification.

(B) The director shall recommend the appropriate representation unit or units sought; thereafter, the City Manager shall establish the representation unit or units, subject only to review as set forth in division (D) of this section.

(C) The city shall not include in any representation unit any employee who is excluded from the definition of employee. The City Manager shall initially designate the representation unit which, in his the Manager's opinion, will be appropriate for collective bargaining.

(D) The final action of the City Manager, in determining the appropriate representation unit, or in certifying the results of an election under § 34.38 shall be subject to appeal to an independent arbitrator by any petitioner or intervenor in the proceeding. The appeal must be in writing, and must be filed with the City Manager in the form prescribed by him within 10 calendar days, exclusive of Saturdays, Sundays, or holidays, of the action appealed from. The independent arbitrator shall be appointed by the American Arbitration Association under its applicable rules. The fees and expenses of the independent arbitrator and of the American Arbitration Association shall be shared equally by the parties involved. The ruling of the independent arbitrator shall not add to, subtract from, or amend any rules or regulations validly adopted pursuant to the provisions of § 34.39. The ruling of the independent arbitrator shall be final and conclusive. (Ord. 2051, passed 11-22-77)

§ 34.38 CERTIFICATION AS A RECOGNIZED EMPLOYEE ORGANIZATION.

(A) If, after reviewing the petition, it appears that a question concerning representation exists, the City Manager shall direct that a secret ballot election be held to ascertain whether a majority of the employees in the appropriate representation unit desire representation. The City Manager shall certify the results of any valid election to council.

(B) No employee organization will be recognized for purposes of collective bargaining which has not been certified as the representative of a majority of the employees voting in an appropriate representation unit. Any employee organization so certified shall be awarded, via council resolution, the exclusive right to negotiate and to represent the representation unit for a reasonable period of time (in no case less than one year). No further election shall be held for the duration of any collective bargaining agreement, nor for the first 12 months after certification as a recognized employee organization.

(C) If 2 or more employee organizations seek to represent the same or similar representation units, the City Manager shall direct that a secret ballot election be held in which the competing employee organizations may participate, and in which employees in

the representation unit shall have the opportunity to vote for any employee organization, or for no employee organization. If no choice on the ballot has an actual majority, a runoff election between the 2 highest choices will be conducted.

(Ord. 2051, passed 11-22-77)

§ 34.39 RULES AND REGULATIONS.

The City Manager, with the approval of council, may promulgate appropriate rules and regulations to implement the provisions of §§ 34.35 through 34.42. These rules and regulations shall be administrative, and shall not change, add to, or subtract from the substance of these sections. They may include, but not be limited to, appropriate proceedings for certification petitions and decertification petitions by employees, and conduct of secret ballot elections. (Ord. 2051, passed 11-22-77)

§ 34.40 IMPASSE RESOLUTION.

(A) In the event of an impasse, and on the request of the city or an employee organization, the parties shall request the services of a mediator from the Federal Mediation and Conciliation Service to assist the parties in resolving the dispute.

(B) If the mediator indicates to the council that the city and the employee organization are unable to reach agreement, the city and the employee organization shall each appoint a member to a fact-finding board. The 2 members so appointed shall mutually agree upon the third member, who shall be disinterested in the dispute and representative of the public. If, for any reason, the public member is not appointed promptly, the third member shall be appointed through procedures established by the Federal Mediation and Conciliation Service.

(C) (1) The fact-finding board shall investigate and determine the facts surrounding the dispute, and within 30 days after appointment, report its findings of fact and recommendations to the council, the City Manager and the employee organization. The board may submit majority and dissenting findings and recommendations, if appropriate.

(2) During the board's appointment and work, the city and the employee organization in the dispute shall be under an obligation to cooperate with the board and continue to negotiate for the purpose of resolving the dispute.

(D) If this dispute remains unresolved for 45 days following the submission of the board's findings and recommendations, the findings and recommendations shall be considered by the council, and upon a majority vote, the council will render a decision in the dispute at a regular meeting. The clerk of the council shall notify the employee organization of the decision in writing.

(E) The decision of the council shall be final unless within 10 days following receipt of the notice by the employee organization either the City Manager or the employee

organization files a written protest with the clerk of the council. The matter shall thereupon be resolved by advisory arbitration as set forth in division (F) below; provided, however, that following receipt of the advisory arbitration award, and upon the agreement of the employee organization and vote of a majority of the council, all or part of the arbitration may be authorized as final and binding on the parties.

(F) The city and the employee organization may mutually agree upon an arbitrator, or a joint letter requesting the Federal Mediation and Conciliation Service to submit the names of 5 arbitrators, signed and mailed by the city and the employee organization. Upon receipt of the names, the city and the employee organization shall alternately cross off one name until one name remains, that person being selected as the arbitrator. A date for arbitration shall be set as soon as possible in accordance with the wishes of the city and the employee organization, and the availability of the arbitrator. Both the city and the employee organization shall share equally the expenses and fees of the arbitrator, and other expenses incident to the arbitration hearing.

(Ord. 2051, passed 11-22-77)

§ 34.41 CONSTRUCTION OF §§ 34.35 THROUGH 34.42.

(A) Nothing in §§ 34.35 through 34.42 shall be construed to deny any person, organization, employee, or employer any rights granted by federal or state law, or local ordinance or charter.

(B) If any provisions of §§ 34.35 through 34.42, or the application of any provision to any person, organization, employee, or circumstance shall be held to be invalid, the remainder of the sections or the application of the provisions to persons, organizations, employees, or circumstances, other than those being held invalid, shall not be affected thereby.

(C) Subject to the limitations pertaining to employees and representation units contained in §§ 34.35 through 34.42, nothing contained herein shall be construed to prohibit 2 or more employee organizations from acting jointly, as a single organization, to register, to petition for a representation unit, or to petition for certification as a recognized employee organization, and if certified, to represent the employees within the representation unit.

(Ord. 2051, passed 11-22-77)

§ 34.42 PROHIBITION AGAINST STRIKES AGAINST CITY.

(A) Definitions. For the purposes of this section, the following words and phrases shall have the following meanings ascribed to them respectively.

(1) EMPLOYEE. Any person holding a position by appointment or employment in the government of the city.

(2) EMPLOYEE ORGANIZATION. Any organization in which employees participate, and which exists for the **primary purpose of representing employees in their employment relations including**, in whole or in part, of dealing with the city in matters concerning wages, hours, fringe benefits, or working conditions.

(3) STRIKE. The failure to report for duty, the willful absence from one's position, 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 in the conditions, compensation, rights, privileges, or obligations of employment, or of intimidating, coercing, or unlawfully influencing others from remaining in or from assuming public employment. This section does not limit, impair, or affect the right of any employee, as defined above, to the expression or communication of a view, grievance, complaint, or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the expression or communication is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment.

(B) Notice, suspension, and hearing.

(1) Any employee who, without the approval of ~~his~~**their** superior, unlawfully fails to report for duty, absents ~~himself~~ **themselves** from ~~his~~ **their** position, or abstains in whole or in part from full, faithful, and proper performance of ~~his~~ **their** position for the purpose of inducing, influencing, or coercing a change in the conditions or compensation, rights, privileges, or obligations of employment, or of intimidating, coercing, or unlawfully influencing others from remaining in or from assuming employment shall be considered on strike.

(2) The employee shall be sent a notice by the director, or the City Manager, addressed to ~~his~~ **their** residence as set forth in ~~his~~ **their** employment record, that ~~he is~~ **they are** on strike, and ~~is~~ **are** suspended without pay. The employee may request and subsequently be entitled to establish that ~~he~~ **they** did not violate the provisions of this section. The request must be filed in writing, with the director or the City Manager, within 10 calendar days after the regular compensation of the employee has ceased. In the event of a request, the director shall, within 10 calendar days of receipt of the request, commence a proceeding for the determination of whether the provisions of this section have been violated by the employee. The proceeding shall be undertaken without unnecessary delay. The director shall, upon hearing all facts presented, make a recommendation as to the disposition of the matter to the City Manager. The City Manager shall finally decide what action is to be taken, and the employee upon receipt of the written decision of the City Manager, shall have the right to appeal the decision to the personnel appeals board of the city in accordance with the board's rules and regulations. (Ord. 2052, passed 11-22-77)