

This Ordinance:

requires

does not require

an amendment to the Code of Ordinances.

ORDINANCE NO. 2005-03-039

An Ordinance Authorizing the Mayor to Execute an Amendment to the Agreement Between the City of Urbana, Illinois and Local # 1147 of the International Association of Fire Fighters for the Term Beginning July 1, 2004 through June 30, 2007 (Contract Section 17.7, implementing the Illinois Fire Department Promotions Act as amended by agreement of the City and the Union)

WHEREAS, The City of Urbana and Local # 1147 of the International Association of Fire Fighters (the "Union") have executed a collective bargaining agreement entitled "AGREEMENT BETWEEN THE CITY OF URBANA, ILLINOIS AND LOCAL #1147 OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS FOR THE TERM BEGINNING JULY 1, 2004 THROUGH JUNE 30, 2007" (the "Collective Bargaining Agreement"); and

WHEREAS, the State of Illinois has enacted legislation known as the Illinois Fire Department Promotions Act, 50 ILCS 742 (the "Act"), which mandates certain fire department promotions procedures unless amended by agreement of the parties; and

WHEREAS, the duly authorized representatives of the City of Urbana, Illinois and the Union have met for the purpose of negotiating in good faith implementation of the Act; and

WHEREAS, negotiators for the City and the Union have reached agreement on implementation of the Act, with changes as agreed by the parties; and

WHEREAS, the negotiated agreement calls for amendment of the Collective Bargaining Agreement, as set forth in the attachment to this ordinance which is incorporated into this ordinance by reference;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That the Council hereby approves the implementation of the Act as negotiated by the representatives of the City and Local #1147 of the International Association of Fire Fighters.

Section 2. That the Mayor is hereby authorized to execute and deliver an AGREEMENT BETWEEN THE CITY OF URBANA, ILLINOIS AND LOCAL #1147 OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS FOR THE TERM BEGINNING JULY

1, 2004 THROUGH JUNE 30, 2007, with the changes implementing the Illinois Fire Department Promotions Act in substantially the form of the agreement which is before this Council, a copy of which is attached hereto and incorporated herein. The City Clerk is authorized to attest to the Mayor's execution thereof.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a regular meeting of said Council.

PASSED by the City Council this ____ day of _____, 20____.

AYES:

NAYS:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this ____ day of _____, 20____.

Tod Satterthwaite, Mayor

Tentative Agreement between the City and IAFF Local 1147

[Section 17.7 of the contract will read as follows:]

Section 17.7 Promotions. Promotions to the rank of Company Officer shall be conducted in accordance with the Illinois Fire Department Promotions Act as amended by agreement of the Union and the City (Appendix "F") and the applicable rules of the Civil Service commission to the extent they are not inconsistent with the provisions of this article. Promotional examinations shall be competitive among qualified candidates in the rank of Firefighter who apply to take the examination. The examination shall include a written exam and assessment center.

[Appendix "F" of the contract will read as follows:]

Appendix F

§ 1. Short title. This Act may be cited as the Fire Department Promotion Act.

§ 5. Definitions. In this Act:

"Affected department" or "department" means a full-time municipal fire department that is subject to a collective bargaining agreement or the fire department operated by a full-time fire protection district. The terms do not include fire departments operated by the State, a university, or a municipality with a population over 1,000,000 or any unit of local government other than a municipality or fire protection district. The terms also do not include a combined department that was providing both police and firefighting services on January 1, 2002.

"Appointing authority" means the Board of Fire and Police Commissioners, Board of Fire Commissioners, Civil Service Commissioners, Superintendent or Department Head, Fire Protection District Board of Trustees, or other entity having the authority to administer and grant promotions in

an affected department.

"Promotion" means any appointment or advancement to a rank within the affected department (1) for which an examination was required before January 1, 2002; (2) that is included within a bargaining unit; or (3) that is the next rank immediately above the highest rank included within a bargaining unit, provided such rank is not the only rank between the Fire Chief and the highest rank included within the bargaining unit, or is a rank otherwise excepted under item (i), (ii), (iii), (iv), or (v) of this definition. "Promotion" does not include appointments (i) that are for fewer than 180 days; (ii) to the positions of Superintendent, Chief, or other chief executive officer; (iii) to an exclusively administrative or executive rank for which an examination is not required; (iv) to a rank that was exempted by a home rule municipality prior to January 1, 2002, provided that after the effective date of this Act no home rule municipality may exempt any future or existing ranks from the provisions of this Act; or (v) to an administrative rank immediately below the Superintendent, Chief, or other chief executive officer of an affected department, provided such rank shall not be held by more than 2 persons and there is a promoted rank immediately below it. Notwithstanding the exceptions to the definition of "promotion" set forth in items (i), (ii), (iii), (iv), and (v) of this definition, promotions shall include any appointments to ranks covered by the terms of a collective bargaining agreement in effect on the effective date of this Act.

"Preliminary promotion list" means the rank order of eligible candidates established in accordance with subsection (b) of Section 20 prior to applicable veteran's preference points. A person on the preliminary promotion list who is eligible for veteran's preference under the laws and agreements applicable to the appointing authority may file a written application for that preference within 10 days after the initial posting of the preliminary promotion list. The preference shall be calculated in accordance with Section 55 and applied as an addition to the person's total point score on the examination. The appointing authority shall make adjustments to the preliminary promotion list based on any veteran's preference claimed and the final adjusted promotion list

shall then be posted by the appointing authority.

"Rank" means any position within the chain of command of a fire department to which employees are regularly assigned to perform duties related to providing fire suppression, fire prevention, or emergency services.

"Final adjusted promotion list" means the promotion list for the position that is in effect on the date the position is created or the vacancy occurs. If there is no final adjusted promotion list in effect for that position on that date, or if all persons on the current final adjusted promotion list for that position refuse the promotion, the affected department shall not make a permanent promotion until a new final adjusted promotion list has been prepared in accordance with this Act, but may make a temporary appointment to fill the vacancy. Temporary appointments shall not exceed 180 days.

Each component of the promotional test shall be scored on a scale of 100 points. The component scores shall then be reduced by the weighting factor assigned to the component on the test and the scores of all components, with the exception of seniority points, shall be added to produce a combined score based on a scale of 100 points, as set forth in Section 30(b).

§ 10. Applicability.

(a) This Act shall apply to all positions in an affected department, except those specifically excluded in items (i), (ii), (iii), (iv), and (v) of the definition of "promotion" in Section 5 unless such positions are covered by a collective bargaining agreement in force on the effective date of this Act. Existing promotion lists shall continue to be valid until their expiration dates, or up to a maximum of 3 years after the effective date of this Act.

(b) Notwithstanding any statute, ordinance, rule, or other laws to the contrary, all promotions in an affected department to which this Act applies shall be administered in the manner provided for in this Act. Provisions of the Illinois Municipal Code, the Fire Protection District Act, municipal ordinances, or rules adopted pursuant to such authority and other laws relating to promotions in affected departments shall continue to apply to the extent they are

compatible with this Act, but in the event of conflict between this Act and any other law, this Act shall control.

(c) A home rule or non-home rule municipality may not administer its fire department promotion process in a manner that is inconsistent with this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of the powers and functions exercised by the State.

(d) This Act is intended to serve as a minimum standard and shall be construed to authorize and not to limit:

(1) An appointing authority from establishing different or supplemental promotional criteria or components, provided that the criteria are job-related and applied uniformly.

(2) The negotiation by an employer and an exclusive bargaining representative of clauses within a collective bargaining agreement relating to conditions, criteria, or procedures for the promotion of employees who are members of bargaining units.

(3) The negotiation by an employer and an exclusive bargaining representative of provisions within a collective bargaining agreement to achieve affirmative action objectives, provided that such clauses are consistent with applicable law.

(e) Local authorities and exclusive bargaining agents affected by this Act may agree to waive one or more of its provisions and bargain on the contents of those provisions, provided that any such waivers shall be considered permissive subjects of bargaining.

§ 15. Promotion process.

(a) For the purpose of granting promotion to any rank to which this Act applies, the appointing authority shall from time to time, as necessary, administer a promotion process in accordance with this Act.

(b) Eligibility requirements.

(1) Eligibility requirements to participate in the promotional process may include a minimum requirement as to the length of employment, education, training, and

certification in subjects and skills related to fire fighting.

After the effective date of this Act, any such eligibility requirements shall be published at least one year prior to the date of the beginning of the promotional process and all members of the affected department shall be given an equal opportunity to meet those eligibility requirements.

(2) Candidates for promotion must meet one of the following eligibility requirements:

(i) The candidate shall have four (4) years experience and be provisionally certified as an Illinois Fire Officer I. The candidate must have four (4) years paid municipal experience as a full-time firefighter including two (2) years as a firefighter with the Urbana Fire Rescue Services Department.

(ii) The candidate shall have five (5) years seniority with the Urbana Fire Rescue Services Department and must be provisionally certified as an Illinois Fire Officer I within one year (1) of appointment. There shall be no exceptions to the requirement that the Fire Officer I course be completed within one (1) year of appointment.

(c) All aspects of the promotion process shall be equally accessible to all eligible employees of the department. Every component of the testing and evaluation procedures shall be published to all eligible candidates when the announcement of promotional testing is made. The scores for each component of the testing and evaluation procedures shall be disclosed to each candidate as soon as practicable after the component is completed.

(d) The appointing authority shall provide a separate promotional examination for each rank that is filled by promotion. All examinations for promotion shall be competitive among the members of the next lower rank who meet the established eligibility requirements and desire to submit themselves to examination. The appointing authority may employ consultants to design and administer promotion examinations or may adopt any job-related examinations or

study materials that may become available, so long as they comply with the requirements of this Act.

§20. Promotion lists.

(a) For the purpose of granting a promotion to any rank to which this Act applies, the appointing authority shall from time to time, as necessary, prepare a preliminary promotion list in accordance with this Act. The preliminary promotion list shall be distributed, posted, or otherwise made conveniently available by the appointing authority to all members of the department.

(b) A person's position on the preliminary promotion list shall be determined by a combination of factors which may include any of the following: (i) the person's score on the written examination for that rank, determined in accordance with Sections 30(b) and 35; (ii) the person's seniority within the department, determined in accordance with Sections 30(b) and 40; (iii) the person's ascertained merit, determined in accordance with Sections 30(b) and 45; and (iv) the person's score on the subjective evaluation, determined in accordance with Sections 30(b) and 50. Candidates shall be ranked on the list in rank order based on the highest to the lowest total points scored on all of the components of the test. Promotional components, as defined herein, shall be determined and administered in accordance with the referenced Section, unless otherwise modified or agreed to as provided by paragraph (1) or (2) of subsection (e) of Section 10. The use of physical criteria, including but not limited to fitness testing, agility testing, and medical evaluations, is specifically barred from the promotion process.

(c) A person on the preliminary promotion list who is eligible for a veteran's preference under the laws and agreements applicable to the department may file a written application for that preference within 10 days after the initial posting of the preliminary promotion list. The preference shall be calculated as provided under Section 55 and added to the total score achieved by the candidate on the test. The appointing authority shall then make adjustments to the rank order of the preliminary promotion list based on any veteran's preferences awarded. The final adjusted promotion list shall then be distributed, posted, or otherwise made conveniently available by the appointing

authority to all members of the department.

(d) Whenever a promotional rank is created or becomes vacant due to resignation, discharge, promotion, death, or the granting of a disability or retirement pension, or any other cause, the appointing authority shall appoint to that position the person with the highest ranking on the final promotion list for that rank, except that the appointing authority shall have the right to pass over that person and appoint the next highest ranked person on the list if the appointing authority has reason to conclude that the highest ranking person has demonstrated substantial shortcomings in work performance or has engaged in misconduct affecting the person's ability to perform the duties of the promoted rank since the posting of the promotion list. If the highest ranking person is passed over, the appointing authority shall document its reasons for its decision to select the next highest ranking person on the list. Unless the reasons for passing over the highest ranking person are not remedial, no person who is the highest ranking person on the list at the time of the vacancy shall be passed over more than once. Any dispute as to the selection of the first or second highest-ranking person shall be subject to resolution in accordance with any grievance procedure in effect covering the employee.

A vacancy shall be deemed to occur in a position on the date upon which the position is vacated, and on that same date, a vacancy shall occur in all ranks inferior to that rank, provided that the position or positions continue to be funded and authorized by the corporate authorities. If a vacated position is not filled due to a lack of funding or authorization and is subsequently reinstated, the final promotion list shall be continued in effect until all positions vacated have been filled or for a period up to 5 years beginning from the date on which the position was vacated. In such event, the candidate or candidates who would have otherwise been promoted when the vacancy originally occurred shall be promoted.

Any candidate may refuse a promotion once without losing his or her position on the final adjusted promotion list. Any candidate who refuses promotion a second time shall be removed from the final adjusted promotion list, provided that such action shall not prejudice a person's opportunities to participate in future promotion examinations.

(e) Passovers.

(1) If a candidate is passed over for promotion, it is agreed that the Fire Chief, a Union representative, and the candidate shall meet to discuss the reasons that the candidate was passed over for promotion.

(2) Passovers will be documented in performance reviews.

(f) Probation. All newly promoted employees shall serve a six (6) month probationary period starting with the effective date of their promotion. The promoted employee is required to successfully complete the probationary period. The Fire Chief may demote the probationary officer back to their previous duty assignment at any time during or at the conclusion of the probationary period for just cause. Such demotion shall cause no loss of seniority to the employee. An employee who is promoted and elects not to continue to serve in the promoted position, at any time during or at the completion of the probationary period, will be voluntarily returned back to the employee's previous duty assignment with no loss of seniority.

(g) A final adjusted promotion list shall remain valid and unaltered for a period of not less than 2 nor more than 3 years after the date of the initial posting. Integrated lists are prohibited and when a list expires it shall be void, except as provided in subsection (d) of this Section. If a promotion list is not in effect, a successor list shall be prepared and distributed within 180 days after a vacancy, as defined in subsection (d) of this Section.

(h) This Section 20 does not apply to the initial hiring list.

§ 25. Monitoring & Proctors.

(a) Monitoring & Proctors.

(1) Monitoring permitted. All aspects of the promotion process, including without limitation the administration, scoring, and posting of scores for the written examination and subjective evaluation and the determination and posting of seniority, shall be subject to monitoring and review in accordance with this Section and Sections 30 and 50.

(2) Selection.

(i) Observers. Two impartial persons who are not members of the affected department may be selected to act as observers by the exclusive bargaining agent. The appointing authorities may also select 2 additional impartial observers.

(ii) Proctors. The City shall select the Proctors. Proctors shall be members of the City's Personnel Division or a qualified and impartial designee.

(iii) Relationship. Proctors and Observers shall not be related by blood, marriage, or other family relationship to any member of the Urbana fire department.

(iv) Selection of evaluators (Assessment Center).

The evaluators for the Assessment Center shall consist of full time career fire officers. Evaluators shall be selected from outside the Urbana and Champaign Fire Departments. Evaluators shall be at least one rank above the position to be filled.

Prior to final selection of the evaluators for the Assessment Center, the City shall tender to the President of the Local a list of names of the evaluators. The list shall consist of one extra evaluator. The Union may veto one evaluator. In addition, if any evaluator on that list is related by blood or marriage or other family relationship to any member of the Urbana Fire Department or City management, the Union may point out that fact and the City shall select another qualified evaluator in that person's place.

(3) Behavior standards.

(i) Interference. The observers monitoring the promotion process are authorized to be present and observe when any component of the test is administered or scored. Except as otherwise agreed to in a collective bargaining agreement, observers may not interfere with the promotion process, but shall promptly report any observed or suspected violation of the requirements of this Act or an applicable

collective bargaining agreement to the proctors, the City's Personnel Manager, the appointing authority and the executive Board of IAFF Local 1147. Any and all issues or problems observed by an observer must be raised by the observer on the date of the observation.

(ii) Contact or preference. Proctors and Observers shall not contact the review board or candidates in any manner as to indicate a preference or disapproval of any candidate.

While any component of the testing process is being administered, no candidate shall communicate with any person, about the exam, other than those authorized to administer, proctor or monitor that part of the testing, and then only to the extent appropriate for the administration of the exam.

(b) The provisions of this Section do not apply to the extent that they are inconsistent with provisions otherwise agreed to in a collective bargaining agreement.

§ 30. Promotion examination components.

(a) Promotion examinations that include components consisting of written examinations, seniority points, ascertained merit, or subjective evaluations shall be administered as provided in Sections 35, 40, 45 and 50. The weight, if any, that is given to any component included in a test may be set at the discretion of the appointing authority provided that such weight shall be subject to modification by the terms of any collective bargaining agreement in effect on the effective date of this Act or thereafter by negotiations between the employer and an exclusive bargaining representative. If the appointing authority establishes a minimum passing score, such score shall be announced prior to the date of the promotion process and it must be an aggregate of all components of the testing process. All candidates shall be allowed to participate in all components of the testing process irrespective of their score on any one component. The provisions of this Section do not apply to the extent that they are inconsistent with provisions otherwise agreed to in a collective bargaining agreement.

(b) Promotional Criteria

(1) The following criteria shall be used to establish the promotional list:

- (i) Seniority Points
- (ii) Assessment Center
- (iii) Written Examination

(2) Seniority points.

(i) Seniority shall be computed from the date of appointment to the position of Firefighter to the date on which the written promotional examination is to be held, including the probationary period.

(ii) Seniority points will be calculated at the rate of one-quarter (1/4) point for every complete year of service in the position of Firefighter. A maximum of five (5) points or a total of twenty (20) years seniority will be allowed. These points are above and beyond the possible 100 points of the promotional examinations and shall be added to the candidate's score.

(3) Assessment Center. The assessment center shall be conducted as outlined in Section 50. The assessment center shall constitute sixty (60) percent of the candidate's combined score.

(4) Written Examination. The written examination shall be conducted as outlined in Section 35. The written examination shall constitute forty (40) percent of the candidate's combined score.

(5) Calculation of the Preliminary Promotion List. The Preliminary Promotion List shall be calculated as follows:

(i) The written examination and the assessment center, combined, shall total 100 points ("the combined score").

(ii) The written examination shall be scored on a scale of 100 points and then shall be reduced by a weighting factor to give it a weight of forty (40) percent of the combined score.

(iii) The assessment center shall be scored on a scale of 100 points and then shall be reduced by a weighting factor to give it a weight of sixty (60) percent of the combined score.

(iv) The seniority points shall then be added to the combined score to produce the scores used to create the preliminary promotional list.

(6) Posting. Applicants for promotion shall be advised of their individual scores from each section of the testing process. Individual scores for each section of the testing process as well as overall composite scores for each candidate shall be posted at the conclusion of the testing process.

§ 35. Written examinations.

(a) The appointing authority may not condition eligibility to take the written examination on the candidate's score on any of the previous components of the examination. The written examination for a particular rank shall consist of matters relating to the duties regularly performed by persons holding that rank within the department. The examination shall be based only on the contents of written materials that the appointing authority has identified and made readily available to potential examinees at least 90 days before the examination is administered. The test questions and material must be pertinent to the particular rank for which the examination is being given. The written examination shall be administered after the determination and posting of the seniority list, ascertained merit points, and subjective evaluation scores. The written examination shall be administered, the test materials opened, and the results scored and tabulated.

(b) Written examinations shall be graded at the examination site on the day of the examination immediately upon completion of the test in front of the observers if such observers are appointed under Section 25, or if the tests are graded offsite by a bona fide testing agency, the observers shall witness the sealing and the shipping of the tests for grading and the subsequent opening of the scores

upon the return from the testing agency. Every examinee shall have the right

(i) to obtain his or her score on the examination on the day of the examination or within a reasonable time after the day of its return from the testing agency (or the appointing authority may require the testing agency to mail the individual scores to any address submitted by the candidates on the day of the examination); and

(ii) The appointing authority may hold a review session after the examination for the purpose of gathering feedback on the examination from the candidates.

(c) Sample written examinations may be examined by the appointing authority and members of the department, but no person in the department or the appointing authority (including the Chief, Civil Service Commissioners, Board of Fire and Police Commissioners, Board of Fire Commissioners, or Fire Protection District Board of Trustees and other appointed or elected officials) may see or examine the specific questions on the actual written examination before the examination is administered, except as agreed in advance, in writing, by the City and the IAFF Local 1147 Executive Board. If a sample examination is used, actual test questions shall not be included. It is a violation of this Act for any member of the department or the appointing authority to obtain or divulge foreknowledge of the contents of the written examination before it is administered.

(d) Each department shall maintain reading and study materials for its current written examination and the reading list for the last 2 written examinations or for a period of 5 years, whichever is less, for each rank and shall make these materials available and accessible at each duty station.

(e) The provisions of this Section do not apply to the extent that they are in conflict with provisions otherwise agreed to in a collective bargaining agreement.

§ 40. Seniority points.

(a) Seniority points shall be based only upon service with the affected department and shall be calculated as of the date of the written examination. The weight of this component and its computation shall be determined by the appointing authority or through a collective bargaining agreement.

(b) A seniority list shall be posted before the written examination is given and before the preliminary promotion list is compiled. The seniority list shall include the seniority date, any breaks in service, the total number of eligible years, and the number of seniority points.

§ 45. Ascertained merit.

(a) Upon prior written agreement between the City and the Union, the promotion test may include points for ascertained merit. Ascertained merit points may be awarded for education, training, and certification in subjects and skills related to the fire service. The basis for granting ascertained merit points, after the effective date of this Act, shall be published at least one year prior to the date ascertained merit points are awarded and all persons eligible to compete for promotion shall be given an equal opportunity to obtain ascertained merit points unless otherwise agreed to in a collective bargaining agreement.

(b) Total points awarded for ascertained merit shall be posted before the written examination is administered and before the promotion list is compiled.

§ 50. Subjective evaluation.

(a) A promotion test may include subjective evaluation components. Subjective evaluations may include an oral interview, tactical evaluation, performance evaluation, or other component based on subjective evaluation of the examinee. The methods used for subjective evaluations may include using any employee assessment centers, evaluation systems, chief's points, or other methods.

(b) Any subjective component shall be identified to all candidates prior to its application, be job-related, and be applied uniformly to all candidates. Every examinee shall have the right to documentation of his or her score on the subjective component upon the completion of the subjective

examination component or its application.

(c) Where chief's points or other subjective methods are employed that are not amenable to monitoring, monitors shall not be required, but any disputes as to the results of such methods shall be subject to resolution in accordance with any collectively bargained grievance procedure in effect at the time of the test.

(d) Where performance evaluations are used as a basis for promotions, they shall be given annually and made readily available to each candidate for review and they shall include any disagreement or documentation the employee provides to refute or contest the evaluation. These annual evaluations are not subject to grievance procedures, unless used for points in the promotion process.

(e) Total points awarded for subjective components shall be posted before the written examination is administered and before the promotion list is completed.

§ 55. Veterans' preference.

A person on a preliminary promotion list who is eligible for veteran's preference under any law or agreement applicable to an affected department may file a written application for that preference within 10 days after the initial posting of the preliminary promotion list. The veteran's preference shall be calculated as provided in the applicable law and added to the applicant's total score on the preliminary promotion list. Any person who has received a promotion from a promotion list on which his or her position was adjusted for veteran's preference, under this Act or any other law, shall not be eligible for any subsequent veteran's preference under this Act.

§ 60. Right to review.

Any affected person or party who believes that an error has been made with respect to eligibility to take an examination, examination result, placement or position on a promotion list, or veteran's preference shall be entitled to a review of the matter by the appointing authority or as otherwise provided by law.

§ 65. Violations.

(a) A person who knowingly divulges or receives test questions or answers before a written examination, or otherwise knowingly violates or subverts any requirement of this Act commits a violation of this Act and may be subject to charges for official misconduct.

(b) A person who is the knowing recipient of test information in advance of the examination shall be disqualified from the promotion examination or demoted from the rank to which he was promoted, as applicable and otherwise subjected to disciplinary actions.