

ORDINANCE NO. O-05-83

AN ORDINANCE AMENDING THE UNIFORMED EMPLOYEES' CODE; AMENDING ORDINANCE NOS. O-2001-13, AS AMENDED BY O-2001-47 AND O-02-48; REPEALING ANY OTHER ORDINANCES IN CONFLICT; AND FOR OTHER PURPOSES.

WHEREAS, the City Council desires to amend Ordinance Nos. O-2001-13, as amended by Ordinance No. O-2001-47 and No. O-02-48;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS, THAT:

SECTION 1. That Ordinance Nos. O-2001-13, O-2001-47 and O-02-48, including any amendments thereto, are hereby amended to read as follows:

SECTION 2. That the following policies and procedures are hereby adopted by the City of Conway and shall be implemented in the Conway Fire and Police Departments:

(a) **Hiring.** Each department shall provide for open competitive examinations and interviews to test the relative fitness of applicants for positions. Each department shall, consistent with state and federal law, promulgate qualifications for each position in that department. Such testing shall be administered by a qualified outside agency or the human resources director from an outside test

(1) **Testing and Interview Criteria: Conway Police Department.** Examinations shall include a rating of applicants based on results of written, oral, or practical examinations, efficiency ratings and educational or vocational qualifications. Further, examinations shall include preference points for applicants already certified as police officers. The police department shall establish criteria for five (5) preference points. The minimum passing score on the written examination shall be eighty percent (80%). The police department shall establish criteria for agility tests, which shall be rated on a "pass/fail" basis. The interview is for the

purpose of evaluating information regarding an applicant's prior work history, communications skills necessary for interaction with the public, employment goals and objectives and other factors deemed relevant.

**(2) Hiring Examination Procedures and Rankings: Conway Police Department.**

The examinations shall be administered annually, or more often, if necessary, at such date and time as established by the Chief of Police. Applicants shall be ranked and such rankings shall remain in effect until the next testing cycle. The chief shall hire one (1) of the five (5) highest ranked applicants for each position. The next highest ranked applicant shall move up to maintain the list of the five (5) highest ranked applicants.

**(3) Testing and Interview Criteria: Conway Fire Department.** Examinations shall

include a rating of applicants based on results of written, oral, or practical examinations, efficiency ratings and educational or vocational qualifications. Further, examinations shall include preference points for applicants already firefighters. The fire department shall establish criteria for five (5) preference points. Three (3) preference points shall be awarded for "Firefighter I *and* II" certification. Two (2) preference points shall be awarded for *Arkansas* EMT certification. The minimum passing score on the written examination shall be eighty percent (80%), exclusive of any preference points that shall be awarded subsequently. The fire department shall establish criteria for agility tests, which shall be rated on a "pass/fail" basis. The interview is for the purpose of evaluating information regarding an applicant's prior work history, communications skills necessary for interaction with the public, employment goals and objectives and other factors deemed relevant.

**(4) Hiring Examinations Procedures and Rankings: Conway Fire Department.** The examinations shall be administered annually on the 2<sup>nd</sup> Monday in May, or more often, if necessary, at such date and time as established by the Chief of the Fire Department. Applicants shall be ranked and such rankings shall remain in effect until the next testing cycle. The chief shall hire one (1) of the five (5) highest ranked applicants for each position. The next highest ranked applicant shall move up to maintain the list of the five (5) highest ranked applicants.

**(b) Promotions.** Each department shall provide for open competitive examinations to test the relative fitness of applicants for positions. Each department shall, consistent with state and federal law, promulgate qualifications for each position in that department. Such testing shall be administered by a qualified outside agency or the human resources director from an outside test.

**(1) Testing Criteria: Conway Police Department.** Examinations shall include a rating of applicants based on results of written, oral, or practical examinations efficiency ratings and educational or vocational qualifications. The minimum passing score on the written examination shall be seventy percent (70%).

**(2) Promotion Examination Procedures and Rankings: Conway Police Department.** The examinations shall be administered annually, or more often, if necessary, at such date and time as established by the Chief of Police. Applicants shall be ranked and such rankings shall remain in effect until the next testing cycle. The Chief of Police shall promote one (1) of the five (5) highest ranked applicants for the position of sergeant or lieutenant. The next highest ranked applicant shall move up to maintain the list of the five (5) highest ranked applicants. The Chief of Police shall promote one (1) of the three (3) highest ranked applicants for positions of any higher rank.

The next highest ranked applicant shall move up to maintain the list of three (3) highest ranked applicants.

**(3) Testing Criteria: Conway Fire Department.** Examinations shall include a rating of applicants based on the results of a written test and a scenario test. The applicant's total score shall be comprised of fifty percent (50%) of the written examination and fifty percent (50%) of the scenario test. An applicant may not proceed to the scenario test unless the applicant has scored at least eighty (80%) on the written examination.

**(4) Promotion Examinations Procedures and Rankings: Conway Fire Department.** The examinations shall be administered annually on the 2<sup>nd</sup> Monday in August, or more often, if necessary, at such date and time as established by the Chief of the Fire Department. Applicants shall be ranked and such rankings shall remain in effect until the next testing cycle. The Chief of the Fire Department shall promote one (1) of the five (5) highest ranked applicants for the position of lieutenant or captain, and one (1) of the three (3) highest ranked applicants for the position of district chief or division chief. With respect to each rank, the next highest ranked applicant shall move up to maintain the respective list of the highest ranked applicants.

**(c) Removal of Names from Rankings Lists For Just Cause.** With respect to both the Conway Police and Fire Departments, the name of an applicant *shall* be removed from the rankings lists for just cause, which shall include any of the following reasons:

- (1) Appointment from such a ranking list to fill a permanent position;
- (2) Three times waiving or declining appointment to permanent positions to which he has been certified from the same eligible list;
- (3) Separation from the department of the applicant on a promotional list for that department;

- (4) Disability that prevents the applicant from satisfactorily carrying on the duties of the position, subject to any reasonable accommodation requirements of state or federal law;
- (5) Notice by postal authorities of their inability to locate the applicant at his last known address;
- (6) Failure to respond or report, within the time specified in a notice of eligibility for hire or promotion, to any inquiry of the appointing authority concerning availability of employment;
- (7) Lack of any of the published requisite qualifications established for the position for which the applicant applied;
- (8) Addiction to intoxicating liquors or drugs;
- (9) Conviction in this state or elsewhere, whether sentenced or not and whether subsequently pardoned or not, and whether subsequently having any such conviction expunged or not, of any felony;
- (10) Practice or attempt to practice any deception or fraud in his application or in his declaration, or in connection with any examination or other aspect of securing his eligibility, ranking or appointment.

The name of an applicant *may* be removed from a ranking list of eligibles for any of the following reasons:

- (1) Conviction in this state or elsewhere, whether sentenced or not and whether subsequently pardoned or not, and whether subsequently having any such conviction expunged or not, of any misdemeanor offense which; (i) involved dishonesty, fraud, cheating or false statement; (ii) was against public morals or decency; (iii) may adversely affect the health or general welfare of the

citizenry; (iv) was a crime of violence, or threatened violence, including assault or battery; (v) constitutes an offense against the public peace, but not including disorderly conduct; or

(2) Dismissal from the public service or private employment for inefficiency, delinquency or misconduct; or

(3) Previous work performance, in either public or private employment, found to have been unsatisfactory as to efficiency, delinquency or conduct.

**(d) Restoration of Names to Lists.** An applicant whose name is removed from a ranking list, as provided above, may make a written request to the chief of his respective department for the restoration of his name to such list. Such request shall set forth therein the error he believes to have been made in applying the above provisions and any evidence which might render the provision inapplicable or explain or excuse any dereliction on the part of the applicant. The name of the applicant shall be restored to its former place on said list only in cases in which it is determined that any of the above provisions were erroneously applied, the facts relied on in removing the applicant's name were incomplete or not true, or that a clearly satisfactory excuse exists for the applicant's dereliction.

**(e) Rehires.** A person who resigned in good standing is eligible for rehire without testing within twelve (12) months, if an opening exists, at the discretion of the chief of that department.

**(f) Probationary periods.** There shall be a period of probation not to exceed twelve (12) months before any new hiring is complete, and six (6) months before any promotion is complete. During the probationary period, the probationer may be terminated, in the case of a new hire, or reduced to the previous rank, in the case of promotion, without cause. After successful completion of the probationary period, the policeman or firefighter develops an expectation of

continued employment unless terminated for violation of state or federal law, city ordinances, department rules and regulations or city handbook.

**(g) Grievance procedures.** The following grievance procedures are hereby adopted:

1. An internal grievance procedure shall be developed by the police and fire departments in cases of disciplinary actions which result in suspension, demotion with loss of pay or termination. Departmental reorganizations, changes in title or creation of new ranks do not constitute a "demotion" absent a corresponding loss of pay. Such procedures shall include the employee being given written notice of the charges or allegations, notice of both the names of those who have made allegations against him, the specific nature and factual basis for the charges or allegations, and an opportunity to respond. The primary function of these procedures is for the determination of whether the charges or allegations against the employee are true and support the proposed action.

2. If an employee receives an adverse decision as a result of an internal departmental review, he shall be provided written notice of such departmental findings.

3. Within ten (10) working days after receipt of the notice, he may request, in writing, an appeal to the Mayor.

4. Upon receipt of a written appeal, the Mayor, within his discretion, may review any relevant documentation or interview any persons, including the employee, regarding the appeal. Within ten (10) working days of receipt of the appeal, the Mayor shall notify the employee of his decision in writing.

5. Subsequent to the Mayor's decision, the employee may appeal to an Appeals Board comprised of members of the City Council. Such an appeal shall be submitted, in writing, to the City Clerk of the City of Conway within ten (10) working days of receipt of the Mayor's decision.

6. A hearing before the Appeals Board shall be held not more than thirty (30) days from the date the written appeal is received. Notice of the time and place of the hearing shall be provided to the employee not less than ten (10) working days prior to the hearing. The Appeals Board shall consist of five (5) members of the City Council who shall be selected by the City Clerk drawing names out of a container in the presence of the employee and one (1) member of the City Council. Prior to the drawing, the employee may, within five (5) working days of receipt of notice of the hearing, submit a list to the City Clerk of not more than two (2) council members who shall be excluded from the random selection of Appeals Board members. At the hearing, the Appeals Board may review relevant documents provided by either the employee or the Department. The Appeals Board may hear from witnesses in support of the adverse decision against the employee, and the employee shall have a reasonable opportunity to present testimony in his defense of the reasons for the prior adverse decision. Hearings before the Appeals Board do not include any right to cross-examine or confront witnesses, although an employee may have counsel present to otherwise assist him. All proceedings before the Appeals Board shall be recorded by the City Clerk. The Appeals Board shall render its decision in writing no later than ten (10) working days from the date of the hearing.

**(h) Amendments.** Any amendments to this ordinance shall require the votes of at least six (6) City Council members. Further, any proposed amendments to this ordinance shall be read at three separate city council meetings at least twelve (12) days apart prior to a vote by the city council.

**(i) Reduction in personnel.** In the event that it shall be necessary to reduce the personnel of any department affected by this ordinance, the last employee hired will be the first laid off. When employees are rehired, the last employee laid off will be offered employment first.



**SECTION 3.** That any ordinances, rules, regulations, policies or procedures in conflict herewith are hereby repealed to the extent of that conflict.

**SECTION 4.** That this ordinance shall go into effect from and after its passage and publication.

**PASSED** this 26<sup>th</sup> day of July, 2005.

**APPROVED:**

  
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**MAYOR TAB TOWNSELL**

**ATTEST:**

  
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**MICHAEL O. GARRETT, CITY CLERK**