

## **Chapter 124, PERSONNEL POLICIES**

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

### **Part 1, Removal, Suspension and Discipline of Civil Service Employees [Adopted 10-5-1970 (Sub-Part I of the 1970 Code)]**

#### **ARTICLE I, Procedural Requirements**

##### **§ 124-1. Hearing required.**

No employee of the City of Binghamton, holding a position in the classified civil service subject to competitive or qualifying examination, shall be removed from such position, reduced in rank, suspended, fined or otherwise punished or disciplined except for incompetency, misconduct or insubordination shown after a hearing, upon written charges specifying in detail the accusation made. A copy of such charges shall be served upon the accused employee, and he or she shall be afforded a reasonable time in which to answer the same in writing, and prepare for a hearing; such hearing shall be had before the head of the department, or the appointing officer or board, who is hereby empowered to hear and determine the matter; he or she shall be entitled to be present at such hearing, to be represented by counsel and to present evidence upon any material issues raised by his or her answer. The burden of proving incompetency, misconduct or insubordination shall be upon the person alleging the same. Every person whose rights in any way may be prejudiced, shall be entitled to a writ of certiorari to remedy the wrong. In case of removal, a statement showing the reasons therefor, together with any evidence taken, shall be filed in the office or department where the accused was employed.

##### **§ 124-2. Applicability to Bureau of Police or Bureau of Fire employees.**

The provisions of this Part 1 shall not apply to any employee of the City who is, by law or otherwise, entitled to be tried, on charges, to the Bureau of Police or the Bureau of Fire.

##### **§ 124-3. Purpose; conflict with existing laws.**

This Part 1 is intended to enlarge the provisions of the Civil Service Law relative to removals and discipline and shall supersede any provisions of the Supplemental Charter of the City of Binghamton, the Second Class Cities Law or general ordinances of the City of Binghamton, inconsistent herewith.

### **Part 2, Attendance at Conferences, Schools and Conventions; Training Programs**

#### **ARTICLE II, Authorization by Mayor [Adopted 10-5-1970 (Sub-Part XI of the 1970 Code)]**

##### **§ 124-4. Power of Mayor to authorize.**

In accordance with and pursuant to Subdivision 1 of § 77-b of the General Municipal Law, the Mayor of the City of Binghamton is hereby delegated the power to authorize the attendance of any official and employee of the City of Binghamton to conventions, conferences and schools conducted for the betterment of municipal government.

#### **ARTICLE III, Attendance at Conventions, Conferences and Schools by Hospital and Library Officers and Employees [Adopted 10-5-1970 (Sub-Part XIX of the 1970 Code); Amended 3-17-10 by Local Law 1-2010]**

##### **§ 124-5. Reserved**

#### **ARTICLE IV, Training for Department of Public Works Employees [Adopted 9-6-2005 by Ord. No. 05-63, effective 1-1-2006]**

**§ 124-6. Safety training; number of hours; subjects to be covered.**

The City of Binghamton shall provide and each employee of the Department of Public Works shall attend \_\_\_\_\_ hours of safety training every calendar year on subjects including but not limited to:

- A. The proper maintenance, use and operation of equipment used in the Department of Public Works; and
- B. The review of the proper manner and procedure for reporting a safety concern.

**Part 3, Personnel Rules, Regulations and Benefits [Adopted 10-5-1970 (Ch. 2, §§ 2-164 through 2-216, of the 1970 Code)]**

**ARTICLE V, General Provisions**

**§ 124-7. Retirement age. [Amended 11-5-1979 by Ord. No. 268-79]**

- A. Age specified. No officer or employee of the City shall continue to serve as such officer or employee after such employee shall have attained the age of 70 years, and upon his or her attaining such age, each such employee shall be retired.
- B. Exceptions. The provisions as set forth in Subsection A shall not apply to any officer or employee in the exempt class of the classified service, nor to any officer or employee in the unclassified service, nor to any officer or employee who is a member of the New York State Retirement System and who has been granted an extension by the New York State Civil Service Commission or New York State Retirement Board.
- C. Nonmembers of the state retirement system. The Director of Personnel and Safety is hereby empowered, authorized and directed to promulgate rules and regulations to establish a system whereby employees of the City of Binghamton who are not members of the New York State Retirement System may be eligible for a local waiver from the mandatory retirement age of 70. The Director of Personnel and Safety shall administer said local waiver system.

**§ 124-8. Workweek for fire fighters. [Added 12-30-1970 by Ord. No. 239-70; amended 1-17-1972 by Ord. No. 8-72]**

Effective February 1, 1972, the average number of hours per week which the fire fighters of the City of Binghamton shall be required to work shall be reduced from the present 47 hours to 46 1/2 hours. Effective January 1, 1973, the average number of hours per week which the fire fighters of the City of Binghamton shall be required to work shall be reduced from 46 1/2 hours to 46 hours.

**ARTICLE VI, Compensation**

**§ 124-9. Plan defined.**

The compensation plan shall consist of the rates of compensation prescribed for classes of positions in the classification plan established by this article with such amendments thereto as may be made from time to time.

**§ 124-10. Definitions for plan.**

When used in this article, the following words, terms and phrases shall have the meanings herein ascribed to them:

COMPENSATION -- Any salary, wage, fee, allowance or other emolument paid to or consideration received by an employee for performing the duties and exercising the responsibilities of a City position and which is computed upon an annual basis.

COMPENSATION SCHEDULE -- A group of rates of compensation consisting of minimum and maximum rates and one or more intermediate rates herein called "increments."

EMPLOYEE -- Any person temporarily or permanently in a City position.

GRADE -- A group of positions, all of which fall within a common minimum and maximum compensation range as set forth in schedules adopted from time to time by the City Council.

POSITION -- A specific City office or employment, whether occupied or vacant, calling for the performance of certain duties and the carrying of certain responsibilities by one individual either on a full-time or part-time basis.

STANDARD COMPENSATION SCHEDULE TABLE -- A series of compensation schedules applicable to the several grades of positions in the City service under the terms and conditions hereinafter prescribed in this article.

STEP -- The addition of one or more increments to the minimum compensation for the particular position affected.

**§ 124-11. Conformance with schedules.**

The compensation plan shall be in accordance with schedules adopted and from time to time amended by the City Council. Said schedules shall be kept on file in the office of the Comptroller and the office of the City Clerk.

**§ 124-12. Positions must be in schedules.**

Only such positions as are specifically described in schedules adopted in accordance with this article shall be deemed as included within the compensation plan established herein.

**§ 124-13. Compensation to conform to schedules.**

Except as otherwise specifically provided, the annual compensation of every position in the City service hereafter created, and of every position now in the City service which shall hereafter become vacant, or the compensation for which shall hereafter be changed, shall be fixed and determined in accordance with the compensation schedules provided for by this article and further in accordance with the provisions of this article relating thereto.

**§ 124-14. Installation rules.**

The following compensation plan installation rules are hereby approved and adopted:

- A. Employees below the minimum of the grade. If the present salary of an employee is below the minimum of the grade to which his or her position is allocated, he or she shall be raised to the minimum of the grade, provided this raise is at least one full increment of the grade. If it is not, the employee shall be raised to the first-year level.
- B. Employees between the minimum and maximum of the grade. The installation rules contained herein shall apply to employees between the minimum and maximum of the grade. In no event shall the salary of an employee be raised beyond the maximum of the grade.
  - (1) If the present salary of an employee is between steps of the grade to which his or her position is allocated, he or she shall be raised to the next highest step of the grade and shall also receive one full increment.
  - (2) If the present salary of an employee coincides with a step of the grade to which his or her position is allocated, he or she shall be raised to the next highest step of the grade.
- C. Employees above the maximum of the grade. If the present salary of an employee is beyond the maximum of the grade to which his or her position is allocated, he or she shall continue at that rate during the period of his or her incumbency, except in the event of general service-wide increases or reductions, and shall not be entitled to any increments unless he or she becomes eligible for longevity step increments.

- D. Part-time employees. The salary schedule provides rates for full-time employment only. When a person is employed on a less than full-time basis, a determination shall be made as to the percentage of the full workweek that the employee is required to devote to his or her position. The employee then shall be paid that percentage of the annual rate as his or her salary for the part-time employment.
- E. Certain employees ineligible for salary increase. As a result of the classification plan, certain positions were reclassified downward. A few of the incumbents of such positions hold permanent status in a higher level title than the reclassified title of the position. These employees are to be paid the salary received immediately prior to the installation of this salary plan. These employees will not be eligible for salary increases (other than general service-wide increases) unless their present salary is below the maximum of the grade to which their reclassified title has been allocated. In this event, the employee's salary shall be determined in accordance with Subsection B of this section.

**§ 124-15. Rules governing administration of plan.**

The following compensation plan administration rules are adopted and approved, and such provisions shall apply equally to temporary or provisional employees as well as to those with permanent status:

- A. New appointees. A new appointee shall be paid the minimum rate of pay for the position to which he or she is appointed unless the department head shall certify to the City Council that it is impracticable to recruit at the minimum salary. The City Council then may authorize recruitment above the minimum of the salary grade for such position. When an appointment is made above the minimum of the grade, all employees in the same title receiving less than the new recruitment rate shall have their salaries brought up to the new rate of pay.
- B. Promotions. The salaries of promoted employees shall be raised to the nearest step of the new grade which provides an increase equal to at least 1/2 the increment of the new grade.
- C. Reallocation downward. When an employee's position is reallocated to a lower salary grade, the employee shall be permitted to continue at his or her present rate of pay during the period of incumbency (except in event of general service-wide reductions) but shall not be eligible for a salary increase, except that if his or her present rate of pay is below the maximum of the lower grade, he or she shall be eligible to receive increments in the lower grade until the maximum of that grade is reached.
- D. Reinstatements. A reinstated employee shall be paid at a salary rate within the range for the position to which he or she is reinstated. His or her salary upon reinstatement shall not exceed the salary received at the time he or she vacated his or her position, unless that previous salary is below the minimum for the position to which reinstated. Under this circumstance the employee shall receive the minimum of the grade.
- E. Part-time employment. When employment is on a part-time basis, employees shall be paid a proportionate rate of the annual salary based on the amount of time actually employed. Increments for part-time employees shall also be proportionate to the annual increment for the grade.
- F. Hourly employment. Employees paid on an hourly basis shall be paid in accordance with the hourly salary schedule and on the basis of the number of hours actually employed.
- G. Temporary assignment to higher grade position. Employees assigned for a temporary or limited period exceeding three consecutive calendar months to a higher grade position due to the illness, injury or a bona fide leave of absence of the holder of such higher grade position shall, after having worked in said higher grade position for three consecutive calendar months, receive the minimum of

the higher grade for the duration of such assignment unless the present rate of pay exceeds such minimum. Under such circumstances, the employee will be compensated in accordance with the provisions of Subsection B of this section.

- H. Allowances. The rate of pay prescribed in the salary schedule represents the gross salary earned. Employees receiving maintenance in connection with their positions shall have charges for the various items of maintenance received deducted from their gross salaries.
- I. Annual increments. Each employee shall be eligible for an annual increment up to the maximum of the grade in which his or her position is allocated, provided that the increment is recommended by the department head. Before such recommendation is made, the service of the employee should be reviewed by his or her department head with attention given to the efficiency with which the employee has performed his or her duties, as well as his or her attendance record and all other factors having an effect on his or her work record. No employee shall be eligible for more than one increment increase in any fiscal year. Employees who enter the City service between January 1 and June 30 of a particular year and have served continuously in their positions will be eligible to receive an annual increment on the following January 1. Employees who enter the service between July 1 and December 31 shall be eligible for advancement to the first year step on the following July 1. Persons who are advanced to the first year step on July 1 then shall be eligible for a salary increment the following January 1.
- J. Enforcement. It shall be the duty of the Comptroller of the City to enforce the rules of the salary plan. It shall be the duty of the Civil Service Commission and all City department heads, officers, and employees to cooperate in enforcing these rules.
- K. Review of plan. The compensation plan shall be reviewed annually by the City Council and Board of Estimate and Apportionment to determine whether adjustments are necessary.

#### **§ 124-16. Overtime compensation.**

- A. Generally. Except as otherwise expressly provided in an agreement pursuant to Article 14 of the Civil Service Law by and between the City and a duly recognized employee organization, all City employees shall be paid overtime compensation at time and 1/2 of the regular basic pay rate of employees, for all time such employee is required to such work in excess of his or her regular weekly established hours of employment, and double time on all holidays such employee is required to work. No such employee shall be paid overtime compensation unless such employee is requested to work overtime by the department head or his or her authorized representative. No such overtime compensation shall be paid to any officer of the City or to any department head of the City of Binghamton.
- B. Applicability to part-time, seasonal employees. The provisions set forth in Subsection A shall not apply to part-time or seasonal employees of said departments.

### **ARTICLE VII, Employee Benefits**

#### **§ 124-17. Annual leave. [Amended 12-20-1999 by Ord. No. 99-187; Amended 4-7-08 by Ord. No. 16-2008; Amended 12-21-09 by Ord. No. 42-2009; Amended 5-22-2013 by Ord. No. 39-2013; Amended 11-20-2013 by Ord. 13-87; Amended 2-12-16 by Ord. No. 16-04; Amended 1-6-17 by Ord. No. 16-105]**

- A. Officers, employees represented by recognized employee organizations. Each officer or employee of the City of Binghamton who is represented by a recognized employee organization pursuant to the provisions of Article 14 of the Civil Service Law shall earn any and all vacation privileges set forth in

the appropriate duly authorized agreement, if any, by and between the City of Binghamton and such recognized employee organization.

B. Officers, employees not represented by recognized employee organizations. Any officer or employee of the City of Binghamton who is not represented by a recognized employee organization pursuant to the provisions of Article 14 of the Civil Service Law shall earn annual leave at the rates set forth hereinafter:

- (1) Officers and employees of the City of Binghamton (the "City") shall earn and accumulate annual leave days at the rate of ½ day per biweekly period *or as may be awarded by the Mayor up to 20 days a year.* An officer or employee shall not earn annual leave credit for any biweekly pay period unless he or she is in full pay status for at least seven workdays during such biweekly pay period. *If the Mayor awards annual leave days in excess of ½ day per semimonthly period and the additional annual leave days below, then additional annual leave days will not accrue until total annual leave days awarded equal total annual leave days accumulated. The amended language herein in italics will sunset and be null and void as of December 31, 2016, unless extended by City Council.*
- (2) Officers and employees of the City shall also earn and be credited with additional annual leave in accordance with the following schedule:

Completed Years of Continuous Service	Additional Annual Leave Days
1	1
2	2
3	3
4	4
5	5
6	6
7-19	7
20+	9

- (3) As of January 1 of each year, the total additional annual leave credits, based upon the above schedule, shall be credited to each officer's or employee's annual leave record. During any current year, the officer or employee shall be credited with the one additional annual leave day on the anniversary date of his or her employment with the City.
- (4) A leave of absence without pay or a resignation followed by reinstatement or a reemployment in the City service within one year following such resignation shall not constitute an interruption of continuous service for the purpose of Subsection B this section; provided, however, that leave without pay for more than six months or the period between resignation and reinstatement or reappointment, during which the employee is not in City service, shall not be counted in determining eligibility for additional annual leave credits under this section.
- (5) In the event an officer or employee is separated from service with the City, compensation shall be granted for any and all unused annual leave credits earned up to the last day of employment.
- (6) Officers, and employees may be advanced any unearned, current year annual leave credits, upon written approval of the department head; provided, however, that such officer or employee, who has been granted such advance, returns to his or her City service and completes the current year's service. In the event the officer or employee who has been advanced any annual leave days as provided herein terminates his or her service prior to the end of the current year in which such advance was made, a deduction for any unearned annual leave days which had been advanced to the officer or employee shall be made from the final payment due the officer or employee by the City.

- C. Effective date; provisions retroactive. This section shall take effect immediately, and the annual leave benefits referred to herein shall be applied retroactively with respect to officers and employees who are employed by the City of Binghamton at the time of the passage of this section.

**§ 124-18. Sick leave.**

- A. Accumulation. Each person in the classified service of the City, except those in the exempt class, shall in case of sickness or disability, except for which workers' compensation is paid, be granted a sick leave with pay not to exceed one day for each month employed in said City service after January 1, 1945. Such sick leave shall be cumulative. Each person in the employ of the City prior to January 1, 1945, shall be credited as of such date with one day of sick leave for each month so employed. Such credit shall not, however, exceed 60 days as of such date.
- B. Crediting and deduction of leave. All sick leave earned shall be credited and all sick leave taken shall be deducted from such employees' accumulated credit at the end of each month.
- C. Procedure; physician's certificate. Sick leave shall be granted only upon application to the department head and, where such sickness is for a period of more than three days or where periods of fewer than three days exceed 12 days in any one year, must be accompanied by a certificate from the attending physician. The department head may, in any other case, require such certificate.
- D. Records. Each department head shall immediately set up as January 1, 1945, and keep and have available at all times, an accurate sick leave record of each such person in his or her department. He or she shall transmit immediately upon completion a copy of such record to the Comptroller and thereafter report to the Comptroller at the end of each payroll period all sick leaves approved by him or her. The Comptroller shall keep and have available at all times a record of the sick leave of each employee of the City as reported to him or her.
- E. Cases covered by Workers' Compensation Law. Sick leave shall not be anticipated nor be permitted in cases covered by the Workers' Compensation Law, except the first seven days thereof may be taken as sick leave, provided the total period of disability does not exceed 35 days. In case of employees working a twenty-four-hour tour of duty, each such twenty-four-hour period taken as sick leave shall be considered two days' sick leave.
- F. Applicability to persons on military leave. All City employees on leave of absence by reason of military service from their positions shall be credited with and receive all sick leave benefits as provided in this section to the same extent as though such employees had been continuously employed during such leave of absence.

**§ 124-19. Leave of absence with pay for members of veterans organizations.**

- A. Leave authorized. The heads of all City departments are authorized to grant leave of absence with pay to officers and employees of the City who are members in good standing of veterans organizations, to attend their respective conventions and encampments, the leave of absence to include traveling time.
- B. Persons who are members of more than one organization. No officer or employee who may be a member of more than one veterans organization shall be granted leave to attend several conventions, excepting, and only one state and one national convention of such organizations as he or she may elect to attend.
- C. Maximum leave granted. No officer or employee of the City shall be granted more than 14 days' leave of absence with full pay during the current year.

- D. Leave not considered part of vacation. Such leave of absence with full pay during the year shall not be considered as part of any vacation period which the statutes of the state or ordinances of the City may allow.
- E. Proof of membership in organization. Every officer or employee who makes application for leave of absence to attend the state and national conventions of veterans organizations shall be required to submit documentary proof of membership in good standing to the head of the City department, and where the member is a department head, such proof and authorization shall be submitted to the Mayor.
- F. Proof of attendance. All officers and employees shall, upon their return, present proof to the head of the department or, if the member is a head of a department, to the Mayor, by the official certificate, that they were in attendance of such convention or encampment on the dates for which leave of absence was granted.

**§ 124-20. Old-age and survivors insurance coverage. [Amended 11-20-2018 by Ord. No. 18-106]**

The City of Binghamton does not designate any positions to be covered by Section 218 of the Federal Social Security Act. Covered positions, if any, shall be determined by the State of New York and the Social Security Administration pursuant to a Section 218 Agreement.

**§ 124-21. Additional retirement benefit under Retirement and Social Security Law § 75-e. [Added 12-3-1973 by Ord. No. 238-73]**

- A. The City Council of the City of Binghamton does hereby elect to grant to eligible City employees, other than police officers or fire fighters, an additional pension for service rendered on or after April 1, 1938, and prior to April 1, 1960, as provided in § 75-e of the Retirement and Social Security Law as presently or hereafter amended.
- B. This election shall become effective January 1, 1974.

**§ 124-22. Participation in state employee retirement system.**

The City does hereby consent to and approve of the officers and employees of the City becoming members in the New York State Employees' Retirement System, established by Chapter 741 of the Laws of 1920, as amended. The provisions of Chapter 741 of the Laws of 1920, as amended, and of Chapter 591 of the Laws of 1922, so far as the same are applicable to membership of the officers and employees of the City of Binghamton in the New York State Employees' Retirement System, are hereby accepted by and made applicable to the City.

**§ 124-23. Noncontributory retirement plan generally.**

The City does hereby elect to come under the provisions of Chapter 1006 of the Laws of 1966, as presently or hereafter amended, and entitled, "An Act to Amend the Retirement and Social Security Law in Relation to Establishing Noncontributory Retirement Plans and Ordinary Death Benefits for State Employees and Members of Participating Employers"; and the members' contributions in the employ of the above shall be suspended, and the effective date of such suspension shall be the payroll period beginning the first day of January, 1968.

**§ 124-24. Pensions for increased take-home pay.**

The City does hereby elect to come under the provisions of Chapter 339 of the Laws of 1960, entitled, "An Act to Amend the Retirement and Social Security Law, in Relation to the Addition of Pensions Providing for Increased Take-Home Pay, Death Benefits and Reopening for a Plan for Retirement at Age Fifty-five," as

thereafter amended, for the purpose of providing death benefits and pensions providing for increased take-home pay, effective January 1, 1961.

**§ 124-25. Participation in state employees health insurance plan. [Added 2-14-1984 by Ord. No. 9-84; Deleted 1-6-2017 by Ord. No. 16-105]**

**§ 124-26. City to pay portion of costs of coverage under statewide plan of health insurance. [Amended 12-17-1973 by Ord. No. 244-73; 5-7-1984 by Ord. No. 40-84; Deleted 1-6-2017 by Ord. No. 16-105]**

**§ 124-27. Optional retirement for fire fighters.**

The City hereby agrees to pay on account of any member of its Fire Department who has duly elected, or shall hereafter duly elect, to contribute the additional amount required for the purpose of retiring after 25 years of service as provided by § 384 of the Retirement and Social Security Law, or any subsequent amendments thereto, the entire additional cost on account of the fire service rendered by such officer or member of the Fire Department prior to the date of December 2, 1957, and further agrees to pay 1/2 of the additional cost on account of fire service rendered by such officer or member of the Fire Department after December 2, 1967.

**§ 124-28. Optional retirement for police officers.**

The City hereby agrees to pay on account of any member of the Police Department who has duly elected, or shall hereafter elect, to contribute the additional amount required for the purpose of retiring after 25 years of service as provided by § 384 of the Retirement and Social Security Law, or any subsequent amendments thereto, the entire additional cost on account of the police service rendered by such officer or member of the Police Department prior to the date of the adoption of the resolution from which this section derived, and further agrees to pay 1/2 of the additional cost on account of police service rendered by such officer or member of the Police Department after the date of adoption of said resolution.

**§ 124-29. Additional statutory retirement benefits. [Added 10-2-1972 by Ord. No. 192-72]**

- A. The City Council of the City of Binghamton does hereby elect, as provided in §§ 384-d and 384-e of the Retirement and Social Security Law, to grant twenty-year retirement plan or twenty-five-year retirement plan with 1/60th additional retirement benefits for eligible City of Binghamton police officers and fire fighters.
- B. This election shall become effective on January 1, 1973.

**§ 124-30. Noncontributory retirement plan for police officers and fire fighters.**

The City does hereby elect to come under the provisions of § 375-b of Article 8 of the Retirement and Social Security Law establishing a noncontributory retirement plan and ordinary death benefits for policemen and firemen and the members' contributions in the employ of the City shall be suspended and the effective date of such suspension shall be the payroll period beginning on the first day of January, 1968.

**§ 124-31. Retirement benefit of one-year final average salary for police officers and fire fighters. [Added 11-1-1971 by Ord. No. 224-71]**

- A. The City Council of the City of Binghamton does hereby elect, as provided in § 302, Subdivision 9(d), of the Retirement and Social Security Law as presently or hereafter amended, to grant a one-year final average salary for eligible City of Binghamton police officers and fire fighters.
- B. This election shall become effective with the payroll period beginning on the first day of January, 1972.

**§ 124-32. Career retirement plan for police officers and fire fighters under state law. [Added 4-17-1984 by Res. Nos. 4-84, 5-84, 6-84]**

- A. Career retirement plan. The Council of the City of Binghamton does hereby elect to provide the career retirement plan of § 375-g of the Retirement and Social Security Law as presently or hereafter amended, for employees of participating employers.
- B. Improved career retirement plan. The Council of the City of Binghamton does hereby elect to provide the benefits of § 375-i of the Retirement and Social Security Law as presently or hereafter amended.
- C. Guaranteed retirement benefits. The Council of the City of Binghamton does hereby elect to provide the benefits of § 375-e of the Retirement and Social Security Law as presently or hereafter amended.
- D. Effective date of election. The elections provided for in Subsections A through C shall become effective with the payroll period beginning April 21, 1984.

**§ 124-33. Career retirement plan under Retirement and Social Security Law §§ 75-g and 75-i. [Added 9-21-1987 by Res. No. 8-87]**

- A. The City does hereby elect to provide the career retirement plan of § 75-g of the Retirement and Social Security Law as presently or hereafter amended, and § 75-i of the Retirement and Social Security Law as presently or hereafter amended.
- B. This election shall become effective on the second day of January, 1988.

**§ 124-34. Coverage under Workers' Compensation Law. [Amended 9-4-1973 by Ord. No. 178-73]**

- A. The Mayor of the City of Binghamton be and he or she hereby is authorized, empowered and directed to execute the necessary documents to provide workers' compensation insurance coverage for all employees of the City of Binghamton, including police and Police Department employees and elected and appointed officials.
- B. The workers' compensation insurance coverage shall be in accordance with the proposal contained in a letter from the State Insurance Fund dated May 1, 1973, and annexed hereto as Exhibit A
- C. The effective date for the insurance coverage shall be October 1, 1973, for the balance of 1973, with a provision for renewal of coverage for the calendar year 1974. The estimated costs for the insurance coverage for three months of 1973 and for the year 1974 shall be as outlined in estimated premiums furnished by the State Insurance Fund and annexed hereto as Exhibit B.
- D. The provisions of insurance coverage shall be as stated in the same insurance policy, which is annexed hereto as Exhibit C.
- E. Constables of City Court. Constables of the City Court while serving and executing any process or mandate issued out of or in connection with any proceeding in the City Court or while performing such other duties as they are required to perform by law shall be deemed officers of the City within the meaning and intent of this section, and thereby are entitled any and all benefits under the provisions of the Workers' Compensation Law.

**§ 124-35. Employee retirement incentive program. [Added 3-7-1991 by Ord. No. 22-91; Amended 6-20-2012 by Ord. No. 43-2012]**

- A. The Council of the City of Binghamton hereby authorizes the establishment of an employee retirement incentive program.
- B. Said incentive program shall result in the payment of \$12,500 to be applied to future health insurance premiums upon retirement.
- C. In order to receive this retirement incentive, the employee must comply with the following:
  - 1. Meet all eligibility requirements for retirement as provided by the New York State Retirement System, and must be eligible for City of Binghamton retiree health care benefits.
  - 2. Be on the City health insurance at time of retirement to be eligible for this incentive, and employees cannot opt on and off the health insurance while they are receiving the incentive.
  - 3. This incentive shall apply to eligible employees within the Police Department who complete, *i.e.*, finishes employment with the City, between January 2, 2013 through April 2, 2013 to eligible employees within the Department of Public Works who complete retirement between March 15, 2013 through April 12, 2013, and to all other eligible employees of the City of Binghamton who complete retirement between January 2, 2013 through March 29, 2013.
  - 4. If an employee opts off the City health insurance and they have any remaining incentive, they will lose the remaining incentive.
  - 5. The incentive must be used first, prior to any use of sick time monies, for those who are eligible to use sick time to purchase retiree health insurance.
  - 6. Eligible employees must currently be employed full time either on a regular full time budget line, a fulltime (benefit eligible) temporary budget line or multiple part time budget lines equivalent to full time.
  - 7. Eligible employees must submit a signed letter of intent to retire, no later than Wednesday, August 1, 2012, and which said letter, becomes an irrevocable letter of resignation for the purpose of retirement on Friday, August 31, 2012, and thereafter the employee must retire on the specified dates.
  - 8. Elected officials are not eligible for the incentive benefits.
- D. Any necessary regulations for implementation of this incentive shall be established by the Comptroller and the Director of Personnel.

**§ 124-36. Accidental disability benefits for police officers.**

- A. Any police officer of the City who is totally disabled from any injury arising out of and in the course of his or her employment, within the meaning and intent of the Workers' Compensation Law, shall be retained upon the Police Department payroll and shall be paid the full amount of his or her regular salary or wages during his or her period of total disability resulting from such injury; but the payment of such wages shall not extend over a period of more than one year, nor beyond the time when such police officer shall obtain from either the state retirement system or the City police pension fund approval of his or her application for accidental disability retirement, whichever shall occur earlier.
- B. The payment of wages to a police officer pursuant to the provisions of this section shall be deemed the payment of compensation to such police officer within the meaning and intent of the Workers' Compensation Law.
- C. In the event that any such injury shall be caused by the negligence or wrong of a third person, and in the event of a recovery by the injured police officer from such third person, such police officer shall repay to the City the amount of all wages paid hereunder and the City shall have a lien on the proceeds of any recovery from such third person, whether by judgment, settlement or otherwise, after the deduction of the reasonable and necessary expenditures, including attorney's fees incurred in

effecting such recovery to the extent of the total amount of all wages paid hereunder, and to such extent such recovery shall be deemed for the benefit of the City.

**§ 124-37. Defense and indemnification of Police Department employees. [Amended 12-19-2005 by Ord. No. 05-87]**

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

CITY -- The City of Binghamton, New York.

CIVIL ACTION -- A Civil action shall mean a civil action or proceeding commenced in a state or federal court and arising out of an employee's alleged act or omission which occurred, or is alleged to have occurred, within the scope of their employment or duties. The term shall include actions commenced pursuant to Title 42, Chapter 21, subchapter 1 of the United States Code. The term shall not include a criminal or quasi-criminal proceeding, a disciplinary proceeding brought against the employee or any other proceeding which may be brought against the employee by the City.

EMPLOYEE -- Any person holding a position by employment with the City of Binghamton Police Department. The term shall include former City employees if the acts or omissions out of which a civil action arises occurred when such a person was employed by the City and shall include a formerly employed's estate or judicial appointed representative. The phrase shall not include independent contractors.

GRAND JURY PROCEEDING -- Grand jury proceeding shall mean a grand jury proceeding in a state or federal court arising out of the on duty use of a weapon by a member of the Binghamton Police Department.

B. Conditions of defense.

- (1) Upon compliance with the provisions of Subsection D of this ordinance the City shall provide for the defense of the employee in any civil action.
- (2) The City shall defend a City employee in any civil action or proceeding before any state or federal court or administrative agency seeking any type of relief, including compensatory or punitive damages, including any award of attorneys' fees, arising out of any act or omission that occurred while the employee was exercising or performing and, as to punitive damages, was properly discharging their powers and duties within the scope of their public employment, as determine by the corporation counsel. This duty to provide for a defense shall not arise where the action or proceeding again the employee is brought by or at the behest of the City itself.
- (3) The corporation counsel shall have the duty to defend or may employ special counsel to defend the employee in any civil action or proceeding unless the corporation counsel determines that an actual conflict of interest exists, in which case the corporation counsel, in cooperation with the duly recognized employee representative organization, shall prepare a list of private attorneys from which the City employee may select private counsel of their choice, except that the corporation counsel may require, notwithstanding the foregoing, that appropriate groups of employees be represented by the same private counsel. The selections of the corporation counsel in preparing such a list shall be made in accordance with standards of professional responsibility and that such counsel has agreed to terms of compensation established by the corporation counsel and to honor all provisions of this ordinance. The corporation counsel may, solely as an exercise of discretion, consider and include on the list an attorney requested by the employee to be defended. If special counsel is employed, the City shall pay reasonable and necessary attorneys' fees at rates established at the time of retainer or of assembly of the list, as well as disbursements and litigation expenses incurred by an employee in their defense. Attorneys' fees, disbursements and litigation expenses shall be submitted by the attorney promptly after the end of each month to the corporation counsel, in the manner and form required by the corporation counsel and shall be reviewed and approved by the corporation counsel prior to payment. Any dispute with respect to representation of multiple employees by a single counsel, the amount of

litigation expenses or the reasonableness of attorneys' fees shall be resolved by the Court upon motion or by way of a special proceeding.

- (4) When, in a civil action, the employee delivers process and a written request for defense to the City under Subsection D herein, the City shall take necessary steps on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide a defense.
- (5) The City shall pay reasonable and necessary attorneys' fees at rates approved by the corporation counsel and prevailing in the local legal community along with reasonable and necessary disbursements and legal expenses relative to grand jury proceedings in which an on-duty use of a weapon by a member of the Binghamton Police Department is being investigated and in which a no bill is reported. This payment of reasonable and necessary attorneys' fees and reasonable and necessary disbursements and legal expenses shall be payable only on behalf of the member(s) of the Binghamton Police Department who are the subject of such grand jury proceedings and in relation to which a no-bill is reported by such grand jury. Attorneys' fees, disbursements and related legal expenses shall be submitted by the attorney for an eligible member of the Binghamton Police Department within 30 days after the issuance of the no-bill by the grand jury, to the corporation counsel in the manner and form required by the corporation counsel and shall be reviewed and approved by the corporation counsel prior to payment. Any dispute with respect to the payment of such attorneys' fees, disbursements or related legal expenses on the reasonableness of such attorneys' fees, disbursements and related legal expenses shall be resolved by the court by way of a special proceeding. The provisions of this subsection (5) shall be restricted to the grand jury proceeding specified herein and shall not be applicable to any other criminal action or proceeding.
- (6) In making the determinations required by this section, the corporation counsel may utilize the cumulative information available at the time the corporation counsel makes the determination, including but not limited to any allegations, any type of records or any examinations or investigations by whomever conducted. With respect to subsection (5), the corporation counsel shall make a determination within 60 days of the return of a no-bill by the grand jury. With respect to subsections (2) and (3) the corporation counsel shall make the determination at or before the time to file or serve any answer in a civil action or proceeding; a determination favorable to the City employee may thereafter be revoked by the corporation counsel, no later than the start of trial, only if the City employee, with respect to any material and relevant acts or omissions, lied or withheld pertinent information in any investigation of the underlying incident upon which the corporation counsel relied in making his original determination and the truth or the previously withheld information causes the corporation counsel to revise the original determination. The corporation counsel's determination, original or revised, shall be in writing and served promptly upon the City employee, and if a determination is adverse to the City employee, it shall state the facts and reasons therefor.
- (7) If, after the City assumes an employee's defense, the employee fails or refuses to cooperate in the formation or presentation of their defense, the City may withdraw its representation upon 10 days written notice to the employee.
- (8) A special proceeding brought pursuant to Article 78 of the New York Civil Practice Law and Rules shall be the exclusive method by which a City employee aggrieved by a determination of the corporation counsel with regard to defense may seek judicial review of the determination.

#### C. Indemnification generally.

- (1) Upon compliance with this section, the City shall indemnify and save harmless a City employee in the amount of any judgment obtained against the employee in a state or federal court or administrative agency or in the amount of any settlement of a claim, in the nature of

compensatory or punitive damages, including any award of attorneys' fees, provided that the employee's act(s) or omission(s) underlying the judgment or settlement occurred while the employee was exercising or performing and, as to punitive damages, was properly discharging his powers and duties within the scope of his public employment, as determined by the corporation counsel. This duty to indemnify and save harmless shall not arise where a judgment is obtained or a claim settled as a result of an action or proceeding brought by or at the behest of City itself.

- (2) Upon the entry of a judgment against the employee, the employee shall serve a copy of such judgment, personally or by certified mail, within five days of the date of entry upon the corporation counsel.
- (3) The City shall have the exclusive right to appeal any judgment rendered against an employee in which private counsel defended the employee if the City is obligated to indemnify or hold harmless the employee with respect to the judgment. At the direction of the corporation counsel the employee shall appeal any such judgment. An employee who fails to appeal any such judgment or to serve the judgment within the time limits set forth herein shall not be entitled to the benefits provided herein.

D. Conditions of defense and indemnification subject to review.

- (1) The duties to defend or to pay for a defense, indemnify and save harmless shall be further conditioned upon the employee.
  - (a) Delivering to the corporation counsel any notice, summons, complaint or any other legal process within 10 days after the employee is served with such document;
  - (b) Fully cooperating in the defense of the civil action or proceeding, and in the defense of any other civil action that may be commenced against the City arising out of the same or related occurrences, and in the prosecution of any appeals, or related proceedings, arising therefrom;
  - (c) Providing the corporation counsel with the full and truthful response to any and all City investigations into the incident(s) and transactions upon which the action or proceeding is predicated.
- (2) The duties to pay for or to provide a defense and to indemnify and save harmless a compensated City employee serving ex officio or as a designated City representative on a non-city board, commission or committee shall be secondary and supplemental to any obligation to defend and indemnify and any liability insurance provided the City employee by the non-city entity on which the City employee serves.

E. Applicability of provisions. The benefits of this section shall inure only to employees as defined herein and shall not enlarge or diminish the rights or obligation of any other party.

F. Provisions not to alter or limit other rights to defense; exception. This section shall not in any way impair any powers of the corporation counsel granted by the City Charter, or any other law, revised general ordinances of the City of Binghamton, ordinance, rule or regulation. The corporation counsel shall have complete charge of the defense in any civil action or proceeding and shall have sole authority to defend or settle, subject to the approval of the Mayor, any action or proceeding or to take, not take or withdraw any appeal in the manner the corporation counsel deems appropriate. This section shall not be construed in any way to impair, alter, limit, modify, or abrogate or restrict any immunity available to or conferred upon any employee, or any right to defense and/or indemnification provided for any employee by, in accordance with, or by reason of, any other provision of state, federal or common law.

G. Application to civil actions, etc. Notwithstanding any other provision of this section hereof, this section shall have no application to any civil actions, grand jury proceedings or administrative

proceedings which were completed either through judgment, settlement or dismissal on any grounds prior to the effective date of this ordinance and such civil actions, grand jury proceedings or administrative proceedings shall be governed by the terms of this ordinance, where applicable.

- H. Effective dates. This ordinance shall take effect immediately upon becoming law and will be applicable to any claims currently pending.

**§ 124-38. Continued pay and benefits for active military personnel. [Added 10-15-2001 by Ord. No. 01-127; Amended 5-17-2004 by Ord. No. 04-56; Amended 3-16-09 by Ord. No. 09-10; Amended 5-7-2014 by Ord. No. 14-21; Amended 6-9-2018 by Ord. No. 18-50]**

- A. That the Council of the City of Binghamton authorizes payment to city employees who are required to report for active duty pursuant to a United States Code Title 10 “Mobilization” (as defined in section C below) for an OCONUS (Outside Continental United States) tour or CONUS (Continental United States) tour for homeland security as a reservist or members of the National Guard the difference between their military pay and their city pay during such mobilization. This section does not apply to voluntary service or training.
- B. The Council also authorizes the provision of health insurance benefits, if not provided by the United States Military, during such mobilization and for a period up to six months after demobilization from said active duty. The employee will contribute to the cost of such health insurance in the same amount as if the employee was working for the City.
- C. “Mobilization” shall include required training and any accrued leave time associated with such mobilization, as defined by United States Code Title 10.
- D. All requests for benefits under this section will be submitted in writing to the Director of Personnel and Safety and the Bureau or Department Head within five (5) business days of the employee’s receipt of the Order or notice for mobilization. The written notice to the Director of Personnel and Safety and the Bureau or Department Head will include a copy of the Order or notice requiring mobilization and the anticipated dates of mobilization. The final determination regarding eligibility under this section will be made by the Director of Personnel and Safety.
- E. This Ordinance shall automatically expire on May 30, 2023.

**ARTICLE VIII, Officers and Employees Not Covered by Collective Bargaining Agreements  
[Added 6-6-1983 by Ord. No. 86-83]**

**§ 124-39. Definition. [Amended 12-16-1985 by Ord. No. 174-85; 5-1-1989 by Ord. No. 49-89; 2-20-1996 by Ord. No. 18-96; 12-20-1999 by Ord. No. 99-187; Amended 6-20-2005 by Ord. No. 05-40; Amended 4-7-08 by Ord. No. 16-2008; Amended 8-18-10 by Ord. No. 10-39; Amended 11-22-2013 by No. Ord. 13-87; Amended 12-17-2014 by Ord. No. 14-71; Amended 1-6-2017 by Ord. No. 16-105]**

Wherever the term “officers and employees” is used in this article, said term shall be deemed to include only the positions set forth in sections 1 and 2 below or their equivalents, except where specified to the contrary. Should any of the below enumerated positions become part of a collective negotiation unit, said position shall be deleted from this section. The provisions of this article shall be applicable to the officers and employees to the extent allowable under law.

1. The positions (elected and management appointed) to be included in this Section 1 are designated as follows:
  - A. 1<sup>st</sup> Assistant Corporation Counsel
  - B. 1<sup>st</sup> Deputy Commissioner
  - C. Assessor
  - D. Assistant Corporation Counsel (2)
  - E. City Clerk
  - F. City Engineer
  - G. Comptroller
  - H. Commissioner of Parks
  - I. Corporation Counsel
  - J. Deputy City Clerk
  - K. Director of Economic Development
  - L. Director of Planning, Housing and Community Development
  - M. Commissioner of Public Works
  - N. Executive Assistant to the Mayor
  - O. Mayor
  - P. Personnel & Safety Director
  - Q. Secretary to Corporation Counsel
  - R. Secretary to the Mayor
  - S. City Treasurer

Salary increases for officers and employees listed in this Section 1, except for the Mayor, are pursuant to §124-40, *Salary Increases*, below

Salary increases for the Mayor are pursuant to §92-12, *Salary established annually*.

2. The positions (management tested) to be included in this Section 2 are designated as follows:
  - A. Administrative Assistant (6)
  - B. Assistant Director of Economic Development
  - C. Assistant Director of Parks & Recreation
  - D. Assistant Police Chief (2)
  - E. Assistant Director of Planning, Housing & Community Development
  - F. Economic Development Specialist Financial Analyst
  - G. Fire Chief
  - H. Legal Typist
  - I. Payroll Supervisor
  - J. Police Chief
  - K. Program Assistant (confidential)
  - L. Purchasing Agent
  - M. Risk Assistant/Paralegal
  - N. Staff Accountant
  - O. Superintendent of City Streets
  - P. Supervisor of Building, Inspection & Construction
  - Q. Water and Sewer Superintendent
  - R. Assistant Personnel & Safety Director
  - S. Assistant City Engineer
  - T. Assistant Comptroller
  - U. Financial Payroll Specialist
  - V. Information Technology Manager
  - W. Assistant to the Mayor for Neighborhood Youth
  - X. Project Analyst

Salary increases for officers and employees listed in this Section 2, except the Police Chief, Fire Chief, and Assistant Police Chiefs, are pursuant to Permanent Ordinance No. 05-40, to wit: (i) That the Mayor is authorized to provide annual salary increases to positions contained in this in Section 2 on parity with those received by represented CSEA employees; (ii) In no year shall the annual salary increase provided for in this Section 2 be paid out until a collective bargaining agreement has been fully executed by and between the City of Binghamton and the CSEA for that year; and (iii) No retroactive payment shall be issued to the positions listed in this Section 2 until after or contemporaneous with the date upon which retroactive payments are issued to the members of the CSEA.

Salary increases for the Police Chief, Fire Chief, and Assistant Police Chiefs are pursuant to § 124-40, *Salary increases*, below.

**§ 124-39. A, Standard work day [Added 12-7-2011 by Ord. No. 11-47; Amended 11-20-2013 by No. Ord. 13-87; Amended 1-6-2017 by Ord. No. 16-105]**

The standard work day for “officers and employees” as defined in §124-39 above, is seven (7) hours per day, not including one (1) hour for lunch, five days per week; except the standard work day for the following positions is eight (8) hours per day, not including one (1) hour for lunch, five days per week: Commissioner of Public Works, City Engineer, 1<sup>st</sup> Deputy DPW Commissioner, Supervisor of Building, Inspection & Construction, Administrative Assistant (to Commissioner of Public Works), Fire Chief, Police Chief, Assistant Police Chief(s), Superintendent of City Streets, and Comptroller, Assistant Comptroller, Staff Accountant, Assessor, Information Technology Manager, City Treasurer. (See Permanent Resolution 11-19, adopted March 19, 2011; Permanent Resolution 13-87, Adopted November 20, 2013; Permanent Ordinance 16-105, Adopted December 21, 2016; Permanent Ordinance 18-91, Adopted October 17, 2018)

**§ 124-40. Salary increases. [Amended 12-21-1992 by Ord. No. 92-122; Amended 4-7-08 by Ord. No. 16-2008; Amended 8-18-10 by Ord. No. 10-39]**

- A. Officers and employees, other than elected officials, may be awarded annual salary increases from an annual salary increase pool, The annual salary increase pool shall be the current annual salary of eligible officers and employees multiplied by the average rate increase received by the City’s collective bargaining units for that year; provided, however, that any settlement imposed by an arbitration panel shall not be included in the average. If less than three bargaining units are settled in a particular year, then the annual salary increase pool shall be the current annual salary of eligible officers and employees multiplied by the average New York consumer price index as determined by the U.S. Department of Labor for the preceding twelve (12) month average as of October 1. When at least three bargaining units are settled thereafter, the annual salary increase pool will be adjusted accordingly. Only current or retired officers and employees will be eligible for retroactive pay adjustments. The City Council of the City of Binghamton may provide, by ordinance, for a rate increase in excess of that provided for above, for any position listed in § 124-39. This section does not include officers and employees covered under Permanent Ordinance No. 05-40. An increase in salary will not increase longevity pay, if any. This section is effective immediately.
- B. Except as provided in Subsection C below, using the average annual salary increase received by all the City's collective bargaining units, the administration, the Mayor, and his or her administrative staff may provide any amount of increase to eligible officers and employees based either on cost of living and/or merit or a combination of the two so long as the maximum amount of annual salary increases does not exceed the pool so established herein.

- C. Increases for City Clerk and Assistant City Clerk. [Added 6-20-2005 by Ord. No. 05-38]
- (1) The Common Council shall determine whether the City Clerk and/or the Assistant City Clerk should receive an annual salary increase and the amount of said increases if any are provided for.
  - (2) It shall be the responsibility of the Employees Committee of the Common Council to forward to the Council as a whole its recommendation as to whether there should be an increase in the salary of either the City Clerk or the Assistant City Clerk, along with the percentage of any increase for the next fiscal year, by the first work session of August in the preceding fiscal year.
  - (3) The recommendation of the Employees Committee may or may not be adopted by the Common Council by a majority vote of its members for a resolution stating the percentage of any increases for either position at a regularly scheduled meeting no later than the first regularly scheduled meeting in September.
  - (4) If such a resolution is adopted, a copy of the resolution shall be forwarded to the Mayor of the City of Binghamton for his or her consideration in the preparation of the proposed budget for the next fiscal year.
- D. In accordance with any annual salary increase provided to any officer and employee, the department supervisor shall advise said employee or officer of that portion which is deemed cost of living versus that portion which is deemed a merit increase based on the prior year's job performance. In addition, supervising personnel should provide annual evaluations of job performance to each and every officer and employee eligible pursuant to this section.
- E. Longevity. Beginning with the first pay period in 2009, the City will include longevity pay in the "regular rate of pay." Longevity will be calculated as of the anniversary date of employment. The City will use the following longevity payment amounts:
- |                        |         |
|------------------------|---------|
| 15-20 years of service | \$500   |
| 21-25 years of service | \$750   |
| 26-29 years of service | \$1,000 |
| 30+ years of service   | \$1,250 |
- F. Compensation for Assistant Police Chiefs (up to two positions). Effective July 10, 2010, Assistant Police Chiefs are officers and employees not covered by a collective bargaining agreement and will receive salary and benefits as follows:
- (1) Base salary of \$74,635 and "other compensation" consistent with General Municipal Law § 207-m, as may be amended from time to time.
  - (2) Increases to base salary and "other compensation" consistent with General Municipal Law § 207-m, as may be amended from time to time; to wit as of July 10, 2010, the Assistant Police Chiefs will receive at least the same dollar amount increase in base salary and increases in "other compensation" as a permanent full-time police officer who is a member of a negotiating unit and who is the highest ranking subordinate to the Assistant Police Chiefs, *i.e.*, a Captain, in such unit. The Assistant Chiefs will be eligible for overtime as may be directed by the Commissioner of Public Safety (the Mayor) or the Police Chief.
- G. Compensation for the Police Chief. Effective January 1, 2006, the Police Chief will receive salary and benefits as follows:
- (1) Base salary of \$85,715 and "other compensation" as provided in General Municipal Law § 207-m, as may be amended from time to time.
  - (2) Increases to base salary and "other compensation" as provided in General Municipal Law § 207-m, as may be amended from time to time; except as of July 10, 2010, the Police Chief will receive at least the same dollar amount increase in base salary increase as an Assistant

Police Chief would have received if an Assistant Police Chief received the same percentage increase as a permanent full-time police officer who is a member of a negotiating unit and who is the highest ranking subordinate to the Assistant Chief, *i.e.*, a Captain, in such unit.

H. Compensation for the Fire Chief. Effective January 1, 2006, the Fire Chief will receive the salary and benefits as follows:

- (1) Base salary of \$85,715 and “other compensation” as provided in General Municipal Law § 207-m, as may be amended from time to time.
- (2) Same base salary increases as the Police Chief as provided in paragraph G above. The Fire Chiefs “other compensation” consistent with General Municipal Law § 207-m based on the same benefits and obligations as a permanent full-time firefighter who is a member of a negotiating unit and who is the highest ranking subordinate to the Fire Chief, *i.e.*, an Assistant Chief. Notwithstanding the foregoing, if the negotiating unit in the Police Bureau does not have a contract for more than one calendar year, the Fire Chief will receive a two (2%) percent increase in base salary per year pending settlement of the collecting bargaining agreement with the negotiating unit in the Police Bureau, at which time there will be a reconciliation and the Fire Chief will be paid the additional amount due and owing or will refund any overpayment to the City.

I. Intermunicipal agreements to share costs and services. Notwithstanding any provision herein, the City may contract to share costs and services with other municipalities or other public entities as may be permitted under the General Municipal Law. Such intermunicipal agreements may include certain positions, including Police Chief, Assistant Police Chiefs, and Fire Chief. Any additional compensation paid to any officer or employee under an intermunicipal agreement will not be included in any of the interrelated calculations in paragraphs F, G, and H above.

**§ 124-41. Annual leave credits [Amended 11-20-2013, by No. O13-87].**

Officers and employees shall receive annual leave credits as provided for in § 124-17 of the Code of the City of Binghamton, except that an employee shall carry over up to ten (10) days unused leave credits to the next calendar year, and with written consent of the Mayor, may carry over up to an additional five (5) days unused leave credit to the next calendar year.

**§ 124-42. Personal leave.**

Officers and employees shall receive five personal leave days per year, to be used whenever needed. Personal leave shall not be cumulative and shall be used within the calendar year.

**§ 124-43. Advancement of leave time. [Added 9-17-1990 by Ord. No. 96-90]**

Officers and employees not covered by collective bargaining agreement shall be authorized to advance leave time of up to 30 days for unforeseen major illness requiring surgery and/or hospitalization. Such leave time shall be repaid from subsequent accruals of leave time within three years, at 10 days per year or a prorated amount based upon the total number of days advanced. Should the employee terminate employment prior to repaying the leave time, the final pay of said employee shall be adjusted accordingly and a repayment shall be made to the City. Final rules and regulations of this leave plan shall be promulgated by the Comptroller of the City of Binghamton in order to ensure uniform application of the plan.

**§ 124-44. Health insurance and disability benefits. [Amended 2-20-1996 by Ord. No. 18-96; 11-21-2002 by Ord. No. 02-133; Amended 12-17-07 by Ord. No. 07-58; Amended 4-7-08 by Ord. No. 08-16; Amended 12-1-08 by Ord. No. 08-40; Amended 2-3-10 by Ord. No. 10-8; Amended 3-17-10 by Ord. No. 10-11; Amended 12-7-2011 by Ord. No. 11-46; Amended 11-6-2013 by Ord. No. 13-81; Amended 1-6-2017 by Ord. No. 16-105; Amended 12-06-2017 by Ord. No. 17-82; Amended 11-20-2018 by Ord. No. 18-105]**

A. Payment schedule for health insurance premiums.

- (1) The Comptroller of the City of Binghamton, as directed by the Mayor, may pay up to the following percentage of the cost of the health insurance premiums for non-union-represented officers and employees (as defined in § 124-39):

<b>Traditional Plan</b>	<b>PPO</b>	<b>High Deductible</b>	<b>Fiscal Year</b>
84%	85%	n/a	2014
84%	85%	n/a	2015
83%	85%	n/a	2016
83%	85%	85%	2017
83%	84%	85%	2018
82%	83%	85%	2019

- (2) The Comptroller of the City of Binghamton, as directed by the Mayor, may pay up to 85% of the cost of health insurance premiums for the Blue Cross/Blue Shield—PPO-B Plan for all non-union-represented officers and employees hired after February 3, 2010. In the event the Blue Cross/Blue Shield—PPO-B Plan is discontinued, this section shall apply to the equivalent replacement policy.

- (3) In order to qualify for continued health insurance coverage at time of retirement from the City: (i) All non-union-represented officers and employees hired prior to December 31, 2008, must have ten (10) years of full time service with the City; (ii) All non-union-represented officers and employees hired on or after January 1, 2009, must have twenty (20) years of full time service with the City; and (iii) All elected officials must have been elected to two consecutive terms in the City and have twenty (20) years of service credit recognized by the New York State and Local Retirement System. All non-union-represented elected officials, officers and employees shall make the required contribution toward health insurance premiums in accordance with applicable City Council ordinance.

- (4) The Mayor of the City of Binghamton shall be required to contribute to the cost of his or her health insurance in an amount to the highest contribution then being made by City bargaining unit employees for the same insurance.

- (5) Part-time employees who are scheduled to work at least 25 hours per week for the full calendar year may enroll in the City’s Blue Cross/Blue Shield—PPO-B Plan for health insurance, provided the employees pays 50% of the premiums. In the event the Blue Cross/Blue Shield—PPO-B Plan is discontinued; this section shall apply to the equivalent replacement policy

- B. The City shall provide a buy-out option of the City-provided health insurance to the active officers/employees as defined in § 124-39. Final rules and regulations of this buy-out option shall be promulgated by the Comptroller of the City of Binghamton in order to ensure uniform application of the plan.

- C. The City will provide long-term disability insurance for active officers and employees as defined in § 124-39.

- D. If an active City employee dies, then in addition to any other state, federal, or contractual rights the employee’s surviving spouse or dependants may have, the City of Binghamton agrees to pay the same percentage of health insurance premiums under COBRA that the City was paying for the employee’s health insurance for the first three months and to pay fifty percent (50%) of the health insurance premiums under COBRA for the next three months.

**§ 124-45. Separation benefits. [Added 12-16-1985 by Ord. No. 174-85; Amended 4-7-08 by Ord. No. 16-2008; Amended 12-4-2013 by Ord. 13-94]**

- A. Employees who have 10 years of service within the City of Binghamton shall be credited on January 1 with their entire annual leave entitlement and shall not be required to earn same throughout the year.
- B. Officers and employees with at least ten (10) years of continuous service with the City of Binghamton will be entitled to a payment equivalent to two-thirds (2/3) of accumulated and unused sick leave up to a maximum of one hundred and fifty (150) days (*e.g.* an employee with 150 accumulated sick days would be entitled to receive a payment equivalent to 100 days). A Mayor who serves two consecutive four year terms with the City of Binghamton will be entitled to a payment equivalent to one-half (1/2) of accumulated and unused sick leave up to a maximum of seventy-six (76) days (*e.g.* a Mayor with 76 accumulated sick days would be entitled to receive a payment equivalent of 38 days).

**§ 124-46. Sick leave.**

Officers and employees shall continue to accumulate sick leave, pursuant to § 124-18 of this chapter.

**§ 124-46.1 Parking.**

Employees with an annual base salary of less than \$30,000 will be eligible for parking at the State Street Parking Ramp at \$15 per month.

**ARTICLE IX, Grievance Procedure**

**§ 124-47. Definitions.**

As used in this article, the following terms shall have the following meanings:

**DAYS** -- All days other than Saturdays, Sundays and legal holidays. Saturdays, Sundays and legal holidays shall be excluded in computing the number of days within which action must be taken or notice given within the terms of this article.

**DEPARTMENT** -- Any office, department, board, commission or other agency of the government of the City.

**EMPLOYEE** -- Any person directly employed and compensated by the City, except persons employed in the legislative or judicial branch thereof.

**GRIEVANCE** -- Any claimed violation, misinterpretation or inequitable application of the existing laws, rules, procedures, regulations, administrative orders or work rules of the City or a department thereof, which relate to or involve employee health or safety, physical facilities, materials or equipment furnished to employees, or supervision of employees; provided, however, that such term shall not include any matter involving an employee's rate of compensation, retirement benefits, disciplinary proceeding or any other matter which is otherwise reviewable pursuant to law or any rule or regulation having the force and effect of law.

**SUPERVISOR** -- An employee or officer on a higher level of authority above the employee in the department wherein the grievance exists and who assigns and supervises the employee's work and approves his or her time record or evaluates his or her work performance.

**§ 124-48. Right to present grievance; representation.**

Every employee of the City shall have the right to present his or her grievance in accordance with the procedures provided herein, free from interference, coercion, restraint, discrimination or reprisal, and shall have the right to be represented by a person of his or her own choosing at all stages of the grievance procedure.

**§ 124-49. Initial presentation of grievance.**

- A. Presentation to department head. An employee who claims to have a grievance shall present his or her grievance to the head of his or her department, orally, within two days after the grievance occurs.
- B. Discussion, investigation of grievance. The department head shall discuss the grievance with the employee, shall make such investigation as he or she deems appropriate and shall consult with his or her superiors to such extent as he or she deems appropriate, all on an informal basis.
- C. Decision of department head. Within three days after presentation of the grievance to him or her, the department head shall make his or her decision and communicate the same to the employee presenting the grievance, and to the employee's representative, if any.

**§ 124-50. Grievance Board.**

- A. Established; function. A Grievance Board consisting of three members is hereby established to hear appeals from decisions of department heads on grievances.
- B. Appointment of members. The members of this Board shall be appointed by the Mayor to serve at the pleasure of the Mayor.
- C. Conduct of hearings. A hearing on any matter before the Grievance Board may be conducted by any one or more members of the Board, designated by the Board to act on its behalf; provided, however, that if less than the full Board presides at such a hearing, the member or members thereof conducting such hearing shall render a report thereon to the full Board and the full Board shall thereupon make its report.
- D. Vote necessary to determine official report, action. Two concurring votes shall be necessary to determine any official report or action of the Grievance Board.
- E. Funds, supplies, etc. Necessary funds, supplies, facilities and personnel to implement the operation of the Grievance Board shall be provided by the City Council.
- F. Rules, regulations. The Grievance Board may make and amend rules and regulations for the conduct of its proceedings not inconsistent with the provisions of this article. A complete and up-to-date set of such rules and amendments shall be kept on file in the City Clerk's office.

**§ 124-51. Appeals to Grievance Board.**

- A. Procedural requirements. An employee may appeal from the decision of the department head within 15 days after notice of such decision. The appeal shall be taken by submitting to the Grievance Board a written statement signed by the employee taking the appeal, containing:
  - (1) The name, residence address, and department of employment of the employee presenting the grievance.
  - (2) The name, residence address, and department of employment of each other employee or official involved in the grievance.
  - (3) The name and address of the employee's representative, if any, and his or her department of employment if he or she be a fellow employee.
  - (4) A concise statement of the nature of the grievance, the facts relating to it, and the proceedings and decisions on the grievance up to the time of the appeal.
  - (5) A request for a review of the decision of the department head.
- B. Statement of facts. The Grievance Board may request the department head to submit a written statement of facts, including a summary of the record of the hearing, if there was a hearing, and the original or a true copy of any other record or document used by the department head in making his

or her decision. Such written statement shall be submitted within three days after request by the Grievance Board.

- C. Hearing to be held; notice thereof. The Grievance Board shall hold a hearing within 10 days after receiving the written request for review. It shall give at least three days' notice of the time and place of such hearing to the employee, the employee's representative, if any, and the department head, all of whom shall be entitled to be present at the hearing. The hearing on the appeal may be held in public or in private as determined by the Grievance Board.
- D. Introduction of new evidence, testimony, etc. New evidence, testimony or arguments, as well as any documents, exhibits or other information submitted to the department head at the hearing held by him or her may be introduced at the hearing by the employee, by the department head or upon the request of the Grievance Board.
- E. Adjournment of hearing. The hearing may be adjourned from time to time by the Grievance Board if in its judgment such adjournment is necessary in order to obtain material evidence. The total of all such adjournments, however, shall not exceed 10 days, except that adjournments consented to by both the employee and the department head shall not be counted in determining the total days of adjournments as herein limited.
- F. Formal rules of evidence. The Grievance Board shall not be bound by formal rules of evidence.
- G. Written summary of hearings. A written summary shall be kept of each hearing held by the Grievance Board.
- H. Reports of Board. The Grievance Board shall make its report in writing within five days after the close of the hearing. It shall immediately file its report and the written summary of the proceedings with the City Clerk and shall at the same time send a copy of its report to the employee, the employee's representative, if any, the department head, the Mayor, and the local civil service commission if appropriate. The report shall include a statement of the Board's findings of fact, conclusions and advisory recommendations. The report of the Grievance Board shall be final.

#### **ARTICLE X, Affirmative Action [Added 1-21-1985 by Ord. No. 9-1985]**

##### **§ 124-52. "Protected class members" defined. [Amended 3-17-10 by Local Law 1-2010]**

The term "protected class member(s)" when used in this article shall include and be limited to: African Americans, Hispanics, Asian or Pacific Islanders, American Indians or Alaskan Natives, Vietnam-era veterans, disabled veterans, older Americans, the disabled, and women seeking nontraditional employment.

##### **§ 124-53. Policy.**

The policy of the City of Binghamton is to provide fair and equal employment opportunities for both employees and applicants for employment on the basis of individual merit and fitness as ascertained through fair and practical methods of selection and promotion without regard to race, color, creed, national origin, religion, marital status, sex, age or physical handicap or other non-merit-related factors. Through the application of sound management techniques and the use of merit principles, the City shall utilize available statistical data which reflects job market conditions, population conditions and the availability of persons possessing requisite skills within the Binghamton area in order to strive for the alleviation of disparity in the employment of minorities and protected class members in the Binghamton municipal government work force. It shall be the goal of the City of Binghamton to increase minority representation in City employment to 5% of the total work force.

##### **§ 124-54. Objectives.**

The City of Binghamton is fully committed to a policy of fairness and equity for all present and prospective employees and affirms that the City shall provide every person the opportunity to achieve maximum potential as an employee and, if applicable, as a protected class member. To accomplish this objective, the City of Binghamton shall affirmatively attempt to:

- A. Encourage and assist all persons without regard to race, color, creed, national origin, religion, marital status, sex, age or physical handicap to qualify for employment and promotion solely on the basis of merit and fitness; and
- B. Redress imbalances in representation or under-utilization in classifications with disproportionate numbers of one sex or race which are caused by artificial barriers of attitude or custom; and
- C. Achieve the goal of full participation of minorities in all levels of municipal employment which might reasonably be expected in proportion to the number of such persons in the area work force utilizing merit and fitness for appointment as required by the Constitution and laws of New York; and
- D. Obtain compliance with both the spirit and letter of the law guaranteeing equal opportunity and freedom from discrimination in any terms or conditions of employment; and
- E. Establish and maintain within the workplace professional relationships free from reference to race, color, creed, national origin, religion, marital status, sex, age or physical handicap at all levels of City employment.

**§ 124-55. Adoption and review of affirmative action plan.**

- A. Pursuant to the authority of the Mayor as the appointing officer and chief executive officer of the City of Binghamton, the Mayor is hereby authorized, empowered and directed to promulgate, establish, implement and enforce rules and regulations designed to effectuate the policies and objectives of the City of Binghamton for equal employment opportunity. Said rules and regulations shall be known as the "Affirmative Action Plan." Said plan shall be consistent with and in accordance with the policy and objective established in this article.
- B. Said affirmative action plan shall be promulgated and be put into effect within 60 days of the effective date of this article (January 21, 1985). A copy of said affirmative action plan shall be filed with the City Clerk and shall be so noted in the minutes of the regular meeting of this Council held subsequent to such filing.
- C. The Council reserves the right to review said affirmative action plan when submitted and return to the Mayor for redrafting any parts of the plan which are found by the Council as a whole to be inconsistent with the policy and objectives established herein.

**Part 4, Compensation of Appointed Officers and Employees [Adopted 10-5-1970 (Sub-Part XXII of the 1970 Code)]**

**ARTICLE XI, Increases**

**§ 124-56. Increase authorized.**

The Council of the City of Binghamton shall have the power and authority to increase the salary or compensation of any appointed City officers or employees at any time during any fiscal year of the City, either before or after the appointment of any such appointed City officers or employees and whether or not such salary or compensation shall previously have been fixed or provided for in the budget of said City for said fiscal year. Any such increase which the Council of the City of Binghamton may make after the adoption of the budget for any fiscal year of the City and which shall become effective during said fiscal year may be paid from any available funds or accounts.

**§ 124-57. Effect on state law.**

This Part 4 shall supersede the provisions of § 25 of the General City Law and shall also supersede § 74 of the Second Class Cities Law to the extent that said sections are inconsistent with this Part 4.

**Part 5, Reimbursement of Fees and Expenses**

**ARTICLE XII, Travel Expense Payments [Adopted 10-5-1970 (Sub-Part XXVII of the 1970 Code)]**

**§ 124-58. Authorization to advance payments; limitation on amount.**

The Comptroller and City Treasurer of the City of Binghamton are authorized and empowered to make advance lump sum travel expense payments to any City officer or City employee to finance trips by such officer or City employee outside the City of Binghamton. No lump sum travel expense payment to any City officer or City employee for any one trip outside the City of Binghamton shall exceed the sum of \$500. As used herein the term "trips" shall mean and include travel on City business and attendance at any convention, conference or school authorized by § 77-b of the General Municipal Law.

**§ 124-59. Written authorization required; exception.**

No lump sum travel expense payment shall be made unless prior written authorization therefor shall be given by the Mayor of the City of Binghamton and by the department head exercising supervision over the City officer or City employee to receive such payment. This section shall not apply to the City Council.

**§ 124-60. Statement of expenses.**

Within five days after any City officer or City employee receiving such a lump sum payment shall have returned to the City following completion of his or her trip or within 30 days after the payment of the advance to the City officer or City employee, whichever shall occur first, such City officer or City employee shall file with the City Comptroller a written statement setting forth in detail any and all actual and necessary expenses of travel, meals, lodging and registration or tuition fees, if any, and such City officer or City employee shall immediately refund to the City the difference, if any, between the advance lump sum payment and the actual and necessary travel expenses of such City officer or City employee.

**ARTICLE XIII, Attorney Registration Fee [Adopted 12-18-1989 by L.L. No. 2-1990 (Sub-Part LXXI of the 1970 Code)]**

**§ 124-61. Comptroller authorized to make payment.**

The Comptroller of the City of Binghamton is authorized to pay the biennial attorney registration fee required by § 468-A of the New York State Judiciary Law for all attorneys who serve as employees of the City of Binghamton.