ORDINANCE NO. 2017-11

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, AMENDING CHAPTERS 6 AND 19 OF THE PEORIA CITY CODE (1992) BY DELETING SECTION 19-1 IN ITS ENTIRETY PERTAINING TO HUMAN RESOURCES DEPARTMENT; ESTABLISHMENT; BY DELETING RESERVED SECTION 19-2 IN ITS ENTIRETY; BY DELETING SECTION 19-3 IN ITS ENTIRETY PERTAINING TO HUMAN RESOURCES DEPARTMENT; POSITION CLASSIFICATION PLAN; BY DELETING RESERVED SECTIONS 19-4 THROUGH 19-13 IN THEIR ENTIRETY; BY AMENDING SECTION 19-14 AND RENUMBERING IT AS SECTION 6-1 PERTAINING TO SYSTEM ESTABLISHED; BY RENUMBERING SECTION 19-15 AS SECTION 6-2 PERTAINING TO PERSONNEL RULES FOR PERSONS EXEMPT FROM MERIT SYSTEM; BY AMENDING SECTION 19-16 AND RENUMBERING IT AS SECTION 6-3 PERTAINING TO EMPLOYEE ORGANIZATION; MEET AND CONFER PROCESS; DEFINITIONS; BY RENUMBERING SECTION 19-17 AS SECTION 6-4 PERTAINING TO EMPLOYEE ORGANIZATIONS; CITY MANAGEMENT RIGHTS; BY AMENDING SECTION 19-18 AND RENUMBERING IT AS SECTION 6-5 PERTAINING TO EMPLOYEE ORGANIZATIONS; PUBLIC EMPLOYEES' RIGHTS; BY AMENDING SECTION 19-19 AND RENUMBERING IT AS SECTION 6-6 PERTAINING EMPLOYEE ORGANIZATION; UNFAIR LABOR PRACTICES; BY AMENDING SECTION 19-20 AND RENUMBERING IT AS SECTION 6-7 PERTAINING TO EMPLOYEE ORGANIZATION; DECERTIFICATION; BY AMENDING SECTION 19-21 AND RENUMBERING IT AS SECTION 6-8 PERTAINING TO MEMORANDUM OF UNDERSTANDING; SCOPE; TERM; RATIFICATION; SUBMISSION TO CITY; BY AMENDING SECTION 19-22 AND RENUMBERING IT AS SECTION 6-9 PERTAINING TO CONCERTED WORK INTERRUPTIONS (STRIKES); BY AMENDING SECTION 19-23 AND RENUMBERING IT AS SECTION 6-10 PERTAINING TO EMPLOYEE ORGANIZATION; MEET AND CONFER PROCESS;

DATES; BY AMENDING SECTION 19-24 AND RENUMBERING IT AS SECTION 6-11 PERTAINING TO EMPLOYEE ORGANIZATION; MEET AND CONFER PROCESS; RESOLUTION PROCEDURES; CITY COUNCIL DETERMINATION; BY AMENDING SECTION 19-25 AND RENUMBERING IT AS SECTION 6-12 PERTAINING TO EMPLOYEE ORGANIZATION; UNFAIR LABOR PRACTICE RESOLUTION PROCEDURES; CITY COUNCIL DETERMINATION; BY RENUMBERING SECTIONS 19-26 THROUGH 19-30 AS RESERVED SECTIONS 6-13 THROUGH 6-17; BY REPEALING SECTION 19-31 IN ITS ENTIRETY PERTAINING TO PERSONNEL BOARD; ESTABLISHMENT; BY REPEALING SECTION 19-32 IN ITS ENTIRETY PERTAINING TO PERSONNEL BOARD; MEMBERS; BY REPEALING SECTION 19-33 IN ITS ENTIRETY PERTAINING TO PERSONNEL BOARD; MEETINGS; BY REPEALING SECTION 19-34 IN ITS ENTIRETY PERTAINING TO PERSONNEL BOARD; RULES AND REGULATIONS; BY REPEALING SECTION 19-35 IN ITS ENTIRETY PERTAINING TO PERSONNEL BOARD; DUTIES; BY REPEALING SECTION 19-36 IN ITS ENTIRETY PERTAINING TO HEARINGS; BY REPEALING SECTION 19-37 IN ITS ENTIRETY PERTAINING TO RIGHT OF APPEAL; BY REPEALING SECTION 19-38 IN ITS ENTIRETY PERTAINING TO METHOD OF APPEAL; BY REPEALING SECTION 19-39 IN ITS ENTIRETY PERTAINING TO NOTICE; BY REPEALING SECTION 19-40 IN ITS ENTIRETY PERTAINING TO HEARING; BY REPEALING SECTION 19-41 IN ITS ENTIRETY PERTAINING TO FINDINGS AND RECOMMENDATIONS; BY AMENDING SECTION 19-42 AS SECTION 6-18 PERTAINING TO PERSONNEL DIRECTOR; BY REPEALING SECTION 19-43 IN ITS ENTIRETY PERTAINING TO PUBLIC SAFETY RETIREMENT SYSTEM BOARD; POLICE AND FIRE LOCAL BOARDS; TERMS; BY REPEALING SECTION 19-44 IN ITS ENTIRETY PERTAINING TO PUBLIC SAFETY RETIREMENT SYSTEM BOARD; POLICE AND FIRE LOCAL BOARDS; ELECTION PROCEDURES FOR EMPLOYEE MEMBERS; BY REPEALING RESERVED SECTIONS 19-45 THROUGH 19-50 IN THEIR ENTIRETY; BY AMENDING SECTION 19-51 AND RENUMBERING IT AS SECTION 6-19 PERTAINING TO BACKGROUND INVESTIGATIONS; PROSPECTIVE CITY EMPLOYEES; IDENTIFYING

THAT CURRENT CHAPTER 6 OF THE PEORIA CITY CODE (1992) HAS BEEN RENUMBERED AND/OR AMENDED AS CHAPTER 19 PERTAINING TO CABLE COMMUNICATION SYSTEMS BY A SEPARATE ORDINANCE; AND PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-1 in its entirety pertaining to Human resources department; establishment and which shall read as follows:

~~Sec. 19-1. Human resources department; establishment.~~

~~(a) There shall be a Department of Human Resources. The Director of the Department shall be appointed by the City Manager and confirmed by the City Council, and shall serve at the pleasure and will of the City Manager. The position shall be an unclassified position and not subject to the City merit system.~~

~~(b) The Department of Human Resources shall consist of two divisions: Employee Relations/Training and Employee Services.~~

~~(c) The city manager is the personnel officer of the city and shall be responsible for the administration of the merit system. The city manager may delegate some or all of his authority as personnel officer as he determines to be appropriate in accordance with this code.~~

SECTION 2. Chapter 19 of the Peoria City Code (1992) is amended by repealing reserved Section 19-2 in its entirety and which shall read as follows:

~~Sec. 19-2. Reserved.~~

SECTION 3. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-3 in its entirety pertaining to Human resources department; position classification plan and which shall read as follows:

~~Sec. 19-3. Human resources department; position classification plan.~~

~~The city manager shall promulgate a position classification plan for the Department of Human Resources. The plan shall establish specific positions assigned to the ranges and steps within the City's pay plan. The promulgation of a position classification plan shall not create any obligation upon the city council to appropriate funds for any position within the plan.~~

SECTION 4. Chapter 19 of the Peoria City Code (1992) is amended by repealing reserved Sections 19-4 through 19-13 in their entirety and which shall read as follows:

~~Secs. 19-4. through 19-13. Reserved.~~

SECTION 5. Chapter 19 of the Peoria City Code (1992) is amended by amending Section 19-14 and renumbering it as Section 6-1 pertaining to System Established and which shall read as follows:

Sec. ~~19~~6-14. System Established.

(a) A merit system of personnel administration is hereby established governing some, but not all of the employees of the City. The Mayor and Council shall authorize the City Manager to adopt and promulgate personnel administrative regulations to provide for the operation of the merit system.

(b) The following employees are excluded from the merit system.

(1) Elected Officials of the City.

(2) Members of Boards and Commissions of the City.

(3) Those city council appointed positions as set forth in this code which serve as staff to the city council.

(4) Persons engaged under contract to supply professional or technical services.

(5) Temporary Employees.

(6) All volunteer personnel who receive no regular compensation from the City or are designated as holding volunteer positions.

(7) Probational Employees

(8) Those administrative, professional and management level employees which are designated as holding exempt positions under the Personnel Administrative Regulations.

(9) Such other positions as the Council may designate.

(c) Any employee excluded from the merit system shall be subject to such other rules and regulations as may be provided under the personnel rules and regulations of the City.

(d) The salaries for exempt employees, except those covered by ~~19-2~~16-8 above, shall be established by ~~the City Council upon recommendation by~~

the City Manager, but nothing herein shall prevent the City Council for good cause shown in the motion for setting such salary or salaries at a rate different from that ~~recommended~~established by the City Manager.

SECTION 6. Chapter 19 of the Peoria City Code (1992) is amended by renumbering Section 19-15 as Section 6-2 pertaining to Personnel rules for persons exempt from merit system and which shall read as follows:

Sec. ~~19~~6-~~15~~2. Personnel rules for persons exempt from merit system.

Any employee excluded from the merit system shall be subject to such rules and regulations as may be provided under the personnel rules and regulations of the city.

SECTION 7. Chapter 19 of the Peoria City Code (1992) is amended by amending Section 19-16 and renumbering it as Section 6-3 pertaining to Employee Organization; meet and confer process; definitions and which shall read as follows:

Sec. ~~19~~6-~~16~~3. Employee Organization; meet and confer process; definitions.

The following terms shall have the following definitions for this code as amended.

(a) Confidential Employee means any employee as designated by the City Manager who has access to information regarding relations between the City and its recognized employee organizations including but not limited to information affecting negotiations with the organizations or resolution of complaints or grievances relating to City Employment relations issues.

(b) Employee Organization means an organization recognized by the City Council by Ordinance or Resolution as authorized to represent a group of employees in the meet and confer process as described in this Chapter for the purpose of meeting and conferring on wages, hours and working conditions.

(c) Managerial Employee means any employee of the Public Employer involved in formulating, determining or effectuating City policies on behalf of the Public Employer or any employee having a major role in employer-employee relations on behalf of the Public Employer, or any employee providing direct assistance in the foregoing functions.

(d) Mediation means the resolution procedure provided for in this Chapter in the event the parties reach an impasse.

(e) Meet and Confer means negotiations pursuant to this Chapter between an Employee Organization and the Public Employer regarding wages, hours, and working conditions applicable to all Public Employees who are eligible to be members of such Employee Organization.

(f) Memorandum of Understanding means a written agreement between the City of Peoria and an Employee Organization regarding wages, hours, and working conditions, as described more fully in Section ~~19-21~~6-8 of this Code.

(g) Public Employee means a City employee who is eligible to be represented by an Employee Organization.

(h) Public Employer means the City of Peoria as an employer of Public Employees. Unless the context indicates otherwise, "Public Employer" and "City" shall be synonymous in this Chapter.

(i) Tentative Agreement means each individual item agreed to by the parties in the Meet and Confer process, pending the resolution of a complete and final package.

(j) Unfair Labor Practice means a violation of Section ~~19-21~~6-6of this Code.

SECTION 8. Chapter 19 of the Peoria City Code (1992) is amended by renumbering Section 19-17 as Section 6-4 pertaining to Employee Organizations; City Management Rights and which shall read as follows:

Sec. ~~19~~6-~~17~~4. Employee Organizations; City Management Rights.

(a) City Council. The Mayor and City Council are recognized as the policy making body of the City of Peoria. None of their actions or decisions shall serve as a basis for, or be evidence of, any unfair labor practice or other violation of this Chapter. The City Council designates the City Manager to serve as the Public Employer's representative in any Meet and Confer process. The City Manager shall seek direction from the City Council (which may occur in Executive Session) during any Meet and Confer process until the process is completed. The City Manager may designate one or more individuals to represent the Public Employer in a Meet and Confer process.

(b) It is the right of the City to determine the purpose of each of its departments, set standards of service to be offered to the public and exercise control and discretion over its organization and operations. It is also the right of the City to direct its employees, take disciplinary action for proper cause, suspend or relieve its employees from duty because of lack of work or for other legitimate reasons, determine whether goods or services shall be made, purchased or contracted for, and determine the methods, means and personnel

by which the employer's operations are to be conducted. The Mayor and City Council may, at their option and sole discretion direct the City Manager to consult with the City's employees, or representatives of their Employee Organization, about the direct consequences that decisions on matters within the City Management Rights set forth herein may have on wages, hours and working conditions.

(c) The City, its City Manager and his designees retain, whether exercised or not, solely and exclusively, all express and inherent rights and authority pursuant to law with respect to determining the level of and the manner in which the City's governmental and proprietary activities are conducted, managed, and administered. The City retains the exclusive right to establish and maintain departmental rules and procedures for the administration of its departments in accordance with its codes and charter provided that such rules and procedures do not violate any of the specific express provisions of this Chapter or Ordinances No. 87-57, 88-13 and 88-14.

(d) The City and its Department Directors and designees have the exclusive right and authority to schedule work and/or overtime work as required in the manner most advantageous to the City.

(e) It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions and specifications are not always specifically described: nevertheless, it is intended all such duties shall be performed by the employee.

(f) The City through its City Manager or his or her designees reserve the right to discipline or discharge employees for cause, pursuant to applicable rules and regulations. The City reserves the right to layoff personnel in its departments.

(g) The City shall determine assignments, and establish methods and processes by which assignments are performed.

(h) The City shall have the right to transfer employees of the City in a manner most advantageous to the City.

(i) Except as otherwise specifically provided in Ordinances 87-57, 88-13, 88-14 and in the City's Charter and code, the City and its City Manager and designees retain unqualifiedly authority to which by law they are entitled.

(j) The City shall have the authority without prior meeting and conferring to effect reorganizations of its departments, agencies and functions, but shall inform the employee organization of such reorganizations.

(k) It is the exclusive right of the City to exercise its Charter rights and obligations in contracting for matters relating to municipal operations.

(I) Any and all rights concerning the management organization, and direction of the City and its Departments, shall be exclusively the right of City, and its City Manager and its designees.

(j) The enumeration of the above rights is illustrative only and is not to be construed as being all inclusive.

SECTION 9. Chapter 19 of the Peoria City Code (1992) is amended by amending Section 19-18 and renumbering it as Section 6-5 pertaining to Employee organizations; public employees' rights and which shall read as follows:

Sec. ~~196~~-~~185~~. Employee organizations; public employees' rights.

(a) Public Employees shall have the right to join and participate in an Employee Organization that is designated as the representative of their positions, or to refrain from joining or participating in same. A Public Employee shall not hold any elective or appointive office in any Employee Organization until such employee shall have successfully completed the probationary period following their initial employment.

(b) The City Council affirms its policy that in matters not expressly covered by an approved Memorandum of Understanding, decision-making authority shall rest with the City Manager unless otherwise provided by the Charter and Code of the City of Peoria as they may from time to time exist.

(c) Public Employees shall have the right to be represented by an Employee Organization to meet and confer with their Public Employer in the determination of wages, hours and working conditions, and to be represented in the determination of grievances arising thereunder.

(d) This Chapter does not prevent any Public Employees from discussing any matters of wages, hours and working conditions as long as the intent of this Chapter is not violated, irrespective of the recognition of a representative; from presenting his or her own grievance, in person or by legal counsel to the Public Employer and having such grievance adjusted without the assistance of the Employee Organization, if such an adjustment is not inconsistent with the terms of a current Memorandum of Understanding.

(e) The Employee Organization shall have its periodic membership dues of its members deducted and collected by the Public Employer from the salaries of those employees who present signed cards in a form satisfactory to the Public Employer, authorizing the deduction of such dues. Such authorization cards may be presented to the employer in person, by mail, or through a representative. Such dues shall be transmitted to the designated representative employee organization of the employee on a monthly basis. Dues deductions may be revoked by the employee upon written notice of such revocation to the Employee Organization, only in the first two weeks of January and the first two

weeks of July in any year and a copy shall be filed with the City by the employee organization.

(f) Supervisory, Professional, Managerial, Confidential, Temporary and Part time employees shall not be represented by any Employee Organization, nor shall such employees take an active role in the policy making activities of the Employee Organization, nor shall such employees participate directly or indirectly in the meet and confer process except as representatives or assistants to the Public Employer. An employee may only be represented by the designated employee organization for their position.

(g) An employee organization acting as the designated representative of an employee group may change its local, state or national affiliations without resulting in any change in status as a designated representative.

SECTION 10. Chapter 19 of the Peoria City Code (1992) is amended by amending Section 19-19 and renumbering it as Section 6-6 pertaining to Employee Organization; Unfair Labor Practices and which shall read as follows:

Sec. ~~19~~6-~~19~~6. Employee Organization; Unfair Labor Practices.

(a) The Public Employer is prohibited from:

(1)~~.~~ Interference with employee rights under this Chapter.

(2)~~.~~ Domination of Employee Organizations.

(3)~~.~~ Discrimination against employees for membership in the Employee Organization or for engaging in concerted activities permitted by this Chapter or by applicable law.

(4)~~.~~ Retaliation against employees for invoking their rights under this Chapter.

(5)~~.~~. Refusing to meet and confer with the Employee Organization or otherwise violating any of the meet and confer requirements contained in Section ~~19-21~~6-10 of this Code; provided it shall not be a violation of this subsection for the Public Employer to refuse to meet and confer about economic items after the date set by law for tentative adoption of the annual budget.

(b) Any Employee Organization is prohibited from:

(1)~~.~~ Restraining or coercing employees in the exercise of their rights under this Chapter.

(2)~~.~~ Causing an employer to unlawfully discriminate against any employee.

(3). Refusing to meet and confer with the employer or otherwise violating any of the meet and confer requirements contained in Section ~~19-21~~6-10 of this Code.

(4). Threatening, coercing, or restraining any person ~~for the objects~~with the intent of forcing the employer to recognize a union, forcing any person to stop doing business with the employer, forcing the employer to meet and confer with an Employee Organization not authorized as the designated representative of a group, or forcing the employer to assign work to a particular Employee Organization, trade or craft.

(5). Causing the employer to pay for services not to be performed.

(6). Nothing herein shall prohibit an Employee Organization from determining and maintaining its own rules for obtaining or retaining membership rights in said organization so long as said rules do not bear upon any rights to employment with the Public Employer.

(7). Commencing or engaging in the discussion of any matters in the meet and confer process with members of the City Council from the time the Employee Organization submits its initial proposal as provided in Section 6-10~~request for meeting and conferring as provided in Section 19-27~~ of this ~~c~~Code and extending up to the presentation of a Memorandum of Understanding or the Mediator's Report to the Mayor and City Council as provided for in Section ~~19-21~~6-15 of this Code.

(8). There shall be no lockout by the City unless required to protect and preserve the public peace, health, or safety of the City and its residents or required by the City to enforce any violation of this Code, Ordinances 87-57, 88-13 and 88-14, any Memorandum of Understanding, or any applicable laws.

(c) The expression of any views, arguments, or opinions, or the dissemination thereof whether in written, printed, graphic or visual form, shall not constitute or be evidence of any violation of any provisions of this code, if such expression contains no threat of reprisal or force or promise of benefit.

(d) Written claims of violations of this section shall be filed with the City Clerk Department as an Unfair Labor Practice and shall be adjudicated in the manner provided in Section ~~19-21~~6-12 of this ~~c~~Code.

(e) The following additional practices are prohibited.

(1). Solicitation of members, dues and other internal Employee Organization business shall be conducted only during non-duty hours and shall not interfere with the work process. This shall not prohibit employees from discussing employee organization business, other than soliciting

members or dues, when on standby time.

(2). It shall be a prohibited practice for any employee organization acting as the designated representative of a group of employees or other eligible representative to make any contribution to Peoria municipal candidates.

(3). It shall be a prohibited practice to refuse to render emergency services, such as public safety to the community. For such services to be withheld, interrupted or discontinued would endanger the health, safety and welfare of the citizens of the City of Peoria.

(f) The following additional practices are prohibited as unfair labor practices for any employee organization serving as the designated representative of any sworn employees in the Ppolice or Fire-Medical Departments:

(1). The Employee Organization or any employee shall not for any reason authorize, institute, aid, condone or engage in a slowdown, work stoppage, strike, or any other interference with the work and statutory functions and obligations of the City or the Department.

(2). The City nor its agents for any reason shall authorize, institute, aid or promote any lockout of members of an employee organization.

(3). Should any member of an employee organization breach the obligations of this section, tThe City Manager or his or her designee shall immediately notify the Employee Organization that represents the employee that a prohibited action is in progress.

(4). After notification by the City Manager pursuant to subsection (f) 3 of this section, for an employee organization to fail or refuse to through its executive officers and other authorized representatives,disavow said strike or other prohibited action, and shall notify in writing all Employee Organization Officers and Employee Organization Members of their obligation and responsibility for maintaining compliance with this section, including their responsibility to remain at work during any interruption which may be caused or initiated by others. Copies of such notification shall be delivered to the office of the City Manager.

(5). For an Employee Organization to fail to order all its members violating this section to immediately return to work and cease the strike both orally and in writing to all members violating this section with copies of the written order to be delivered to the office of the City Manager.

(6). Penalties or sanctions the City may assess against employees who violate this section shall include, but not be limited to:

a. Discipline up to and including discharge.

b. Loss of all compensation and benefits, including seniority, during the period of such prohibited activity.

(7). Should an employee organization breach its obligations under this section it is agreed that all penalties set forth herein shall be imposed on the employee organization in addition to any other legal and administrative remedies available to the City that in its discretion it may elect to pursue.

(8). Nothing contained herein shall preclude the City from obtaining judicial restraint or from seeking damages from the Association in the event of a violation of this Chapter.

SECTION 11. Chapter 19 of the Peoria City Code (1992) is amended by amending Section 19-20 and renumbering it as Section 6-7 pertaining Employee Organization; Decertification and which shall read as follows:

Sec. ~~19~~6-~~20~~7. Employee Organization; Decertification.

(a) The initial or any subsequent Employee Organization shall be decertified as the Employee Organization in the event of ~~either~~any of the following situations:

(1). Its failure to have included in its membership an employee of the City of Peoria in a position eligible to be a member of the unit represented by the employee organization, ~~or~~

(2). Decertification as a result of an election of the employees in a designated group held in the manner hereafter described~~.~~, or

(b) In the event a petition to decertify the employee organization is filed with the Human Resources Department containing the signatures of more than 50 percent of the number of City employees in a group eligible to have a Memorandum of Understanding with the City, the City through its City Manager and the Employee Organization shall each select a resident of the City of Peoria who is not an employee, officer, or Councilmember of the City of Peoria or interested in any capacity as a representative of the City of Peoria or a member of the Employee Organization, an employee or agent of the Employee Organization or a member, Employee or agent of any parent, subsidiary or affiliate thereof to serve on an Election Board. If either party fails to select a member to serve on the election board within twenty days following the filing of the petition, the Office of the Federal Mediation and Conciliation Service of the U.S. Department of Labor shall select the member.

(c) The two appointees shall then select a third member to serve on the Election Board and whom shall have the same qualifications or eligibilities for Appointment to the Election Board as the two initial appointees. The third member shall be selected within 20 days after the appointment of the first two members. In the event the two members are unable to select a third member,

the Office of the Federal Mediation and Conciliation service of the U.S. Department of Labor shall select the third member. The Election Board shall then adopt rules and regulations applicable to the election contemplated to be held hereunder and shall proceed with conducting such election forthwith.

(d) The election to be held hereunder may submit to the appropriate group one or more of the following questions:

"Should the [name of existing Employee Organization] be retained as the designated representative of the group of employees under this code", and/or,

"Should another [name of Employee Organization] be designated to serve as the designated representative of the group of employees under this code", or

"Should any [name of Employee Organization] be designated to represent the group of employees", and/or "Should there be any change in the bargaining unit which an existing employee organization serves as the designated representative."

A majority vote of those employees of the City in positions that the bargaining unit is authorized to act as their designated representative. Voting in said election shall be determinative of the issues herein and in the event there is no majority vote on any proposition submitted at said election, the then acting Employee Organization shall continue to act as such designated representative of the group until such time as any further election decides otherwise.

(e) It is the intent that said election shall be conducted in a fair and equitable manner ensuring all employees of group for which the election is being held have a fair and appropriate forum in which they may express their vote. The City shall not dominate any such election and any activities of any organization or group seeking the right to be designated an Employee Organization or seeking a determination of no representation shall be carried out after normal working hours of the employees and off the premises of the City except for public streets and right of ways and areas designated as first amendment forum areas.

(f) In each calendar year, no election shall be held to determine the issues provided for in this Section until the approval of a Memorandum of Understanding by the Employee Organization and the City Council or the adoption of the City's tentative budget, whichever occurs first.

SECTION 12. Chapter 19 of the Peoria City Code (1992) is amended by amending Section 19-21 and renumbering it as Section 6-8 pertaining to Memorandum of Understanding; scope; term; ratification; submission to City and which shall read as follows:

Sec. ~~196~~-~~218~~. Memorandum of Understanding; scope; term; ratification; submission to City

(a) A Memorandum of Understanding may extend to matters regarding wages, hours and working conditions subject to the following:

(1) Federal and State Laws.

(2) City Charter and City Code of the City of Peoria

(b) A Memorandum of Understanding may be executed for a period not to exceed four (4) years.

(c) Upon reaching an agreement between the Public Employer and the Employee Organization on the issues discussed in the Meet and Confer Process, the tentative agreements shall be reduced to writing in a proposed Memorandum of Understanding to be submitted by the Employee Organization to its members.

(1) If the members of the Employee Organization ratify the proposed Memorandum of Understanding, then the proposed Memorandum of Understanding shall be sent to the City Council for discussion and action. Should the City Council fail to approve the proposed Memorandum of Understanding in total, the City Council may direct:

a. ~~Those portions of the proposed Memorandum of Understanding which the Council approves shall be implemented and the remaining provisions sent back to the Employee Organization and the Public Employer for re-negotiation or~~

~~b.~~ The proposed Memorandum of Understanding in whole may be sent back by the City Council to the Employee Organization and City the Public Employer for re-negotiation or

~~c~~b. The Council may take such action as it deems appropriate in the public interest, including but not limited to extending the existing Memorandum of Understanding between the Employee Organization and the Public Employer.

(2) If the Employee Organization fails to accept any part of the proposed Memorandum of Understanding, ~~then the Employee Organization may request the City to consider action on those parts of the proposed Memorandum of Understanding which are acceptable to the Employee Organization and continue negotiation on the remainder or in the alternative refer the remainder to Mediation in accordance with this Chapter. Alternatively, upon a failure of the Employee Organization to accept any part of the proposed Memorandum of Understanding,~~ the City may:

a. Send back the Proposed Memorandum of Understanding for renegotiation between the Employee Organization and the Public Employer; or

b. The City Council may elect to continue the prior Memorandum of Understanding in place for a period not to exceed the length of the original term of the Memorandum of Understanding;

c. The City Council may take such other action as it deems appropriate in the public interest; or

d. A Memorandum of Understanding shall be signed by the President and Secretary of the Employee Organization and by the City Manager on behalf of the Public Employer. Such Memorandum of Understanding shall become effective upon approval by the City Council of the City of Peoria.

(d) In the case of any Employee Organization recognized as the designated representative of a group of employees on or after December 31, 2009, the initial Memorandum of Understanding shall not become effective until December 31 of the same year in which the Employee Organization is recognized. The City and the Employee Organization in such cases shall not commence the meet and confer process until July 1, of the same year.

SECTION 13. Chapter 19 of the Peoria City Code (1992) is amended by amending Section 19-22 and renumbering it as Section 6-9 pertaining to Concerted work interruptions (strikes) and which shall read as follows:

Sec. ~~19~~6-~~22~~9. Concerted work interruptions (strikes).

(a) Upon a finding and declaration by the council that a strike, work stoppage or slowdown, or other form of concerted work interruption constituting a peril to the public safety, health and welfare, any city employee who participates in the organization, leadership or execution of any such strike, work stoppage or slowdown, or other form of concerted work interruption against the city, shall be immediately terminated by his appointing officer or the city manager. Notice of termination shall be given by personal service, or in the alternative by posting at the employee's assigned work reporting location and in at least three (3) public places within the city, and by certified mail to the employee's mailing address then currently on file with the city.

(b) An employee terminated under this section may within ten (10) calendar days of the effective date thereof, appeal in writing to the C~~c~~ity M~~m~~anager for a review of his termination, which review shall be limited strictly to a factual inquiry as to whether the employee was or was not engaged in the activities covered by this section. If the manager determines that the employee

was not so engaged, then the employee shall be immediately reinstated with back pay.

(c) The provisions of the personnel rules and regulations of the city do not apply to a termination under this section.

(d) An employee who is terminated under this section shall be ineligible for reemployment in the city service, except as otherwise provided. Such an employee shall not be entitled to compensation or ~~fringe~~ benefits beyond the date of termination.

SECTION 14. Chapter 19 of the Peoria City Code (1992) is amended by amending Section 19-23 and renumbering it as Section 6-10 pertaining to Employee Organization; Meet and Confer Process; dates and which shall read as follows:

Sec. ~~19~~6-~~23~~10. Employee Organization; Meet and Confer Process; dates.

(a) The City recognizes and affirms the unilateral right of each of the Employee Organizations involved in the Meet and Confer process to select and appoint representatives who participate on their behalf in Meet and Confer discussions, in related consultations, and in informal meetings regarding Meet and Confer subject matters. The City Manager or such persons as he or she designates or any combination thereof shall serve as the City's representatives in the Meet and Confer process. The City Manager or such persons as he or she designates or any combinations thereof, shall meet and confer solely with the duly designated representatives of the Employee Organizations. Similarly, representative(s) of the Employee Organizations shall meet and confer solely with the City Manager or such persons as he or she designates or any combinations thereof. In formal Meet and Confer discussions, both the Employee Organization and the Public Employer shall designate no more than four individuals to represent each party and attend meetings. Either party may designate additional individuals who have special knowledge concerning a particular issue to attend a meeting to discuss that issue on behalf of the party.

(b) The Public Employer and the Employee Organization shall have the duty through appropriate officials or representatives to meet and confer in good faith with respect to wages, hours and working conditions in accordance with the provisions of Ordinances No. 87-57, No. 88-13 and 88-14.

(c) No later than September 1 of the year prior to the year when the current Memorandum of Understanding will expire, the Employee Organization shall present in writing its Meet and Confer proposal to the City Clerk, who will transmit it to the City Council and the City Manager.

(d) No later than September 15, the Public Employer shall present in writing its Meet and Confer proposal, including a response to the Employee

Organization's proposal, to the City Clerk, who will transmit it to the City Council and the Employee Organization.

(e) At the first regularly scheduled City Council meeting following the exchange of proposals between the Public Employer and the Employee Organization, ~~in October,~~ but no later than September 30 both the Employee Organization and Public Employer will present their Meet and Confer proposals to the City Council.

(f) Following the City Council presentation prescribed in Subsection (e), the Employee Organization and Public Employer shall begin negotiations within ten calendar days. In the event the Employee Organization has failed to present in writing its meet and confer proposal to the Public Employer, the Public Employer may elect not to begin negotiations until thirty days following submission of the Employee Organization Meet and Confer proposal.

(g) Meet and confer negotiations shall close no later than December 15. If Tentative Agreements resulting in a proposed Memorandum of Understanding consistent with Section ~~19-21~~6-8(c) have not been entered into by that date, either the Employee Organization or the Public Employer may initiate a request to the other party to engage in mediation pursuant to Section ~~19-21~~6-11.

(h) If a Memorandum of Understanding has not been entered into by February 7 of the year when the current Memorandum of Understanding will expire, any items discussed in Meet and Confer which did not result in Tentative Agreements will be brought to the City Council pursuant to Section ~~19-21~~6-11.

(i) Any time period under this section or any related ordinance on the Meet and Confer process may be extended by mutual written agreement of the City's duly appointed representative and the Employee Organization without any further approvals.

(j) Meet and Confer negotiations shall include only those items identified by the Employee Organization or Public Employer pursuant to Subsections (c) and (d), unless otherwise mutually agreed by both parties.

(k) As part of the Meet and Confer negotiations, it is expected that the Employee Organization will seek direction from its members as necessary and the Public Employer, through the City Manager, will seek direction from the City Council as necessary (which may include discussions between the City Council and the City Manager and his or her designees held in Executive Session pursuant to the Arizona Open Meeting Law, A.R.S. §§ 38-431 et seq.

SECTION 15. Chapter 19 of the Peoria City Code (1992) is amended by amending Section 19-24 and renumbering it as Section 6-11 pertaining to Employee Organization; meet and confer process; resolution procedures; city council determination and which shall read as follows:

Sec. ~~196-24~~11. Employee Organization; meet and confer process; resolution procedures; city council determination.

(a) The mediation process shall be voluntary and non-binding. It is a structured process and designed to resolve problems using the assistance of a neutral third person or persons to assist the parties to reach a voluntary agreement to resolve the dispute. Any party may withdraw at any time by notifying the Mediator and the other party in writing of its intent to withdraw. If either party refuses to participate or withdraws from the mediation process, the matter shall be addressed in accordance with paragraph (f). While participating in Mediation, the parties agree to make a good faith attempt to resolve the matter through mediation, to cooperate with the Mediator and to be open, candid and complete in their efforts to resolve the dispute. The Mediator facilitates the meet and confer process, but not impose his or her views of what the agreement should be.

(b) The Mediator shall be selected by mutual agreement of the parties. The cost for the services of the mediator, including per diem expenses, if any, and actual and necessary travel and subsistence expenses, shall be borne equally by the Public Employer and the Employee Organization.

(c) Each party will submit to the Mediator the Tentative Agreements any material information as it deems necessary to familiarize the Mediator with the dispute. Submissions may be made in writing or orally. The Mediator may request any party to provide clarification and additional information. The Mediator may request each party separately or at a joint meeting to present its case informally to the Mediator. The mediation process will be confidential. The parties and the Mediator will not disclose to third parties any information regarding the process, settlement terms, or the reasons for the impasse.

(d) The Mediator will control the procedural aspects of the mediation. There will be no direct communication between the parties without the concurrence of the Mediator. The Mediator will be free to meet and communicate separately or jointly with each party. The mediation will continue until: 1. A settlement is reached. 2. One of the parties withdraws from the process, or 3. The Mediator concludes and informs the parties that further attempts at resolution will not be useful.

(e) If the parties fail to develop mutually acceptable settlement terms, the Mediator may, before terminating the procedure, submit to the parties a recommended settlement proposal. The parties agree in good faith to consider such proposal and discuss the same. In event the settlement recommendations of the Mediator are not acceptable to both parties, the issues in dispute shall be submitted to the City Council.

(f) If a Memorandum of Understanding has not been entered into as the result of mediation by February 7 of the year when the current Memorandum of Understanding will expire, the Employee Organization and Public Employer

shall provide in writing to the City Clerk, who will transmit to the City Council, a list of Tentative Agreements and a list of those items where agreement was not reached.

(g) No later than February 28, the City Council shall conduct a meeting to address those items provided by the Employee Organization and Public Employer pursuant to Subsection (f) where agreement was not reached. At that meeting the City Council will provide an opportunity for the Employee Organization and Public Employer to present their positions on those items. Following the presentations, the City Council shall provide direction concerning the items in dispute. The City Council's directions on the disputed items, together with the Tentative Agreements, shall serve as a proposed Memorandum of Understanding ("Proposed MOU").

(h) Following a City Council meeting described in Subsection (g), the Public Employer shall provide the Proposed MOU to the Employee Organization for consideration consistent with Section ~~19-21~~6-8. If the Employee Organization ratifies the Proposed MOU, the Proposed MOU will be presented to the City Council for consideration at the next regularly scheduled City Council meeting. If the Employee Organization does not ratify the Proposed MOU, the City Council shall take such action as it deems in the public interest, including the interest of the employees involved. Such City Council action may include adopting a Resolution prescribing work rules, compensation, and other Meet and Confer items. If a mediator has submitted recommendations to the City Council pursuant to Subsection (e), the City Council may reject, accept or modify any recommendations of the Mediator.

SECTION 16. Chapter 19 of the Peoria City Code (1992) is amended by amending Section 19-25 and renumbering it as Section 6-12 pertaining to Employee Organization; unfair labor practice resolution procedures; City Council determination and which shall read as follows:

Sec. ~~19~~6-~~25~~12. Employee Organization; unfair labor practice resolution procedures; City Council determination.

(a) Upon a claim of an Unfair Labor Practice by either the Employee Organization or the Public Employer, the parties shall informally meet and discuss over the Unfair Labor Practice. In the event that an agreement is not reached either the City or the Employee Organization may initiate a request to the other party in writing to commence the administrative process provided in this Section.

(b) An Employee Organization or the City may charge that the other or a person affiliated with the other has engaged in or is engaging in any Unfair Labor Practice by filing a complaint in writing with the City Clerk identifying the organizations and persons that are charged with engaging in the Unfair Labor Practice, the basis for the charge and the relief requested. Upon filing, the complaint shall be served upon the President of the Employee Organization, or in

the case of the City upon the City Manager, in any manner calculated to give notice. The party named in the complaint shall have ten (10) working days to answer the charge in writing.

(1) Upon filing the complaint the City Clerk shall assign the case to one of the administrative hearing officers appointed by the City Council for personnel or labor relations matters.

(2) A party named in the complaint may request dismissal of the complaint on the basis that the charge, even if found to be true, would not constitute an Unfair Labor Practice under this Chapter because the matter in question is not within the scope of Section ~~19-21~~6-6. If a party requests dismissal, the administrative hearing officer shall review the filings and issue a written ruling, determining either: (i) the complaint is dismissed because the matter is not within the scope of Section ~~19-21~~6-6, or (ii) the matter is within the scope of Section ~~19-21~~6-6and the complaint should proceed to a hearing.

(3) Within five (5) working days of receipt of an answer or making a determination pursuant to Subsection (2) that the complaint should proceed to a hearing, the administrative hearing officer shall hold a pre-hearing conference to establish deadlines for exchanging information, the date for the hearing, processes and procedures for discovery of information from the opposing party, dates by which pre-hearing statements are due and any other actions necessary for the prompt adjudication of the matter.

(4) If injunctive relief has been requested as part of the filing of the charge, the administrative hearing officer may rule upon such request or may set the request for a hearing.

(5) Any request for change of hearing officer shall be filed prior to or at the initial pre-hearing conference, in which case the City Clerk shall reassign the matter to a new administrative hearing officer. A party may have only one (1) request for change of hearing officers.

(c) In any such proceeding, the rules of evidence prevailing in courts of law or equity shall be followed but shall not be controlling. The proceedings before the administrative hearing officer shall be conducted in a reasonably prompt manner. Continuances shall be granted only for good cause. The parties may be represented by counsel.

(d) Testimony shall be taken at the hearing. The administrative hearing officer may hear argument upon all the testimony taken.

(e) The administrative hearing officer shall determine if any person or organization named in the complaint has engaged in or is engaging in any Unfair Labor Practice. If such a determination is made, the administrative hearing officer shall state his or her findings of fact, and issue and cause to be served on such person an order requiring such person to cease and desist from such Unfair Labor Practice. Such order may further require such person to make reasonable reports, from time to time, showing the extent to which the order has been complied with. The administrative hearing officer retains jurisdiction to impose a civil penalty of not more than five hundred ($500) dollars for a continuing failure to comply with an order to cease and desist. The decision of the administrative hearing officer shall be final.

(f) If, upon all the testimony, the administrative hearing officer shall be of the opinion that the person or persons named in the complaint has not engaged in or is not engaging in any such Unfair Labor Practice, then the administrative hearing officer shall make his or her findings of fact and shall issue an order dismissing the complaint. A copy of such findings of fact, conclusions of law, and order shall be mailed to all parties to the proceedings. The decision of the administrative hearing officer shall be final.

(g) The administrative hearing officer assigned to hear the Unfair Labor Practice is empowered, as provided by this Section, to prevent any person from engaging in any unfair practice listed in this Chapter. This power shall be exclusive and shall not be affected by any other means of adjustment or prevention that have been or may be established by agreement, law, or otherwise.

SECTION 17. Chapter 19 of the Peoria City Code (1992) is amended by renumbering Sections 19-26 through 19-30 as reserved Sections 6-13 through 6-17 and which shall read as follows:

Secs. ~~19-26~~13. through ~~19-30~~17. Reserved.

SECTION 18. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-31 in its entirety pertaining to Personnel board; establishment and which shall read as follows:

~~Sec. 19-31. Personnel board; establishment.~~

~~(a) There is hereby created a Personnel Board. The scope of the~~

~~Personnel Board shall include the conduct of hearings on certain employee appeals and the formulation of supplemental personnel system rules, regulations and recommendations. The recommended supplemental personnel system rules, regulations and recommendations pertaining thereto shall be advisory only and shall be forwarded to the City Council for its consideration and action.~~

~~(b) The Personnel Board of the City shall be composed of a total of three (3) regular members and one alternate member. The members of the Board shall be appointed by the Mayor with the approval of the council. Upon the effective date of this ordinance the Board shall be reduced in number by the number or vacant seats. For each succeeding year after 1998, the total number of members subject to appointment shall be reduced by one, until the total membership of the Personnel Board is three members. However, if only one member of the Personnel Board is subject to appointment in that year, the year shall be skipped until the next year where more than one member is subject to appointment. Thereafter the members shall be appointed in accordance with Section 2-150 of this code.~~

~~(c) Members of the Board appointed as alternates shall be able to participate in all Board proceedings, but shall not be able to vote, except in accordance with the provisions of this section. Upon a determination by the Chairman that a regular member(s) of the Board is disqualified from participating in a matter or the Board is lacking a quorum, the Chairman shall designate the alternate member present to sit in place of the absent or disqualified regular member(s). The designated alternate member(s) shall exercise all powers and duties granted to a regular member during the meeting that they are so designated, except to be nominated to the position of chairman or vice chairman. In the event a matter before the Board during which an alternate member is designated is continued to a subsequent meeting, the alternate member shall participate in all subsequent proceedings involving the matter.~~

~~(d) Alternate Board members shall not automatically succeed to the seat of a vacant board member, unless appointed by the Mayor with the approval of the council in the manner provided by this code.~~

SECTION 19. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-32 in its entirety pertaining to Personnel board; members and which shall read as follows:

~~Sec. 19-32. Personnel board; members.~~

~~The Personnel Board of the City shall be composed of a total of three (3) regular members and one alternate member. The members of the Board shall be appointed by the mayor with the approval of the Council.~~

SECTION 20. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-33 in its entirety pertaining to Personnel board; meetings and which shall read as follows:

~~Sec. 19-33. Personnel board; meetings.~~

~~The Personnel Board shall hold regular meetings or at least annually at such time and place within the city as shall be designated by the chairman of the board. In addition, the Board may hold special meetings upon the call of the chairman or a majority of the members of the Board. A majority of the members of the Board shall constitute a quorum for the transaction of business. Meetings shall be conducted informally in accordance with such rules and procedures as may be adopted by the Personnel Board.~~

SECTION 21. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-34 in its entirety pertaining to Personnel board; rules and regulations and which shall read as follows:

~~Sec. 19-34. Personnel board; rules and regulations.~~

~~The Personnel Board may adopt rules for its conduct and the conduct of hearings not inconsistent with this article or the resolutions of the Council.~~

SECTION 22. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-35 in its entirety pertaining to Personnel board; duties and which shall read as follows:

~~Sec. 19-35. Personnel board; duties.~~

~~Unless otherwise provided in this Chapter, the duties of the Personnel Board shall be to conduct hearings on matters properly brought before the Board under the grievance procedures established by this Article or by other Ordinance or Resolution of the City Council. As to grievances heard by the Personnel Board, the decision of the Personnel Board shall be final. The Personnel Board shall meet at least once annually to discuss and review its own procedures and organization.~~

SECTION 23. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-36 in its entirety pertaining to Hearings and which shall read as follows:

~~Sec. 19-36. Hearings.~~

~~(a) Hearings shall be conducted in accordance with the personnel administrative regulations promulgated by the City Manager.~~

~~(b) The City shall retain one or more persons to act and perform the duties of an administrative hearing officer for all hearings under this article or arising out of the personnel administrative regulations which have resulted in the dismissal of an employee. The hearing shall be conducted in private, unless the appealing employee requests a public hearing. Upon request, the hearing officer may exclude from any hearing, during the examination of a witnesses, any or all~~

~~other witnesses in the matter being heard by the hearing officer. The hearing officer may admit all relevant or probative evidence regardless of whether such evidence is admissible under the rules of evidence applicable to the Arizona Court.~~

SECTION 24. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-37 in its entirety pertaining to Right of Appeal and which shall read as follows:

~~Sec. 19-37. Right of Appeal.~~

~~Any employee covered under the merit system shall have the right to appeal any disciplinary action. The right of appeal shall not apply to those matters subject to the grievance provisions of any personnel administrative regulations until all of the remedies afforded under such grievance regulations have been exhausted. After the exhaustion of grievance remedies provided under personnel administrative regulations adopted by the Mayor and Council, appeals shall be handled in the same manner as all other appeals under this article or pursuant to the personnel administrative regulations.~~

SECTION 25. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-38 in its entirety pertaining to Method of Appeal and which shall read as follows:

~~Sec. 19-38. Method of Appeal.~~

~~All appeals shall be in writing signed by the appealing employee and filed with the Human Resources Department. The Human Resources Department within ten working days after receipt of the appeal, shall transmit the appeal and any other relevant information to the administrative hearing officer assigned to this matter. The appeal shall be a written statement, addressed to the Human Resources Department, explaining the matter appealed and setting forth a statement of the action desired by the appealing employee, with the reasons therefor. All appeals must be filed within ten working days of the date of the action to be appealed.~~

SECTION 26. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-39 in its entirety pertaining to Notice and which shall read as follows:

~~Sec. 19-39. Notice.~~

~~Upon the filing of an appeal, the hearing officer assigned to the appeal shall set a date for a hearing on the appeal not less than ten working days nor more than 30 calendar days nor more than 30 calendar days from the date of filing. The Human Resources Department shall notify all interested parties of the date, time and place of the hearing.~~

SECTION 27. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-40 in its entirety pertaining to Hearing and which shall read as follows:

~~Sec. 19-40. Hearing.~~

~~The Personnel Board shall recommend to the City Manager rules of procedure under which hearings provided for by this article or pursuant to Personnel Administrative Regulations shall be conducted. The City Manager shall review the rules recommended by the Personnel Board and together with any amendments which he has incorporated shall promulgate such rules.~~

SECTION 28. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-41 in its entirety pertaining to Findings and Recommendations and which shall read as follows:

~~Sec. 19-41. Findings and Recommendations.~~

~~(a) The hearing officer assigned to the appeal within ten working days after the conclusion of the hearing held by the hearing officer, shall submit their findings and recommendations to the appealing employee, the City Manager and legal counsel representing the City and the Personnel Board.~~

~~(b) The Personnel Board shall schedule a meeting within thirty days after receipt of the decision of the hearing officer to review the findings and recommendations of the hearing officer. The personnel board may adopt the findings of the hearing officer; modify the findings and recommendations of the hearing officer or reject the findings and recommendations of the hearing officer. The decision of the Personnel Board shall be final.~~

SECTION 29. Chapter 19 of the Peoria City Code (1992) is amended by amending Section 19-42 and renumbering it as Section 6-18 pertaining to Personnel Director and which shall read as follows:

Sec. ~~19~~6-~~42~~18. ~~Personnel~~Human Resources Director.

The ~~City Manager is hereby designated the Personnel Officer of the City and~~Human Resources Director shall be responsible for the administration of the merit system. ~~The City Manager may delegate some or all of his authority as Personnel Officer to Personnel Director appointed by him.~~

SECTION 30. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-43 in its entirety pertaining to Public Safety Retirement System Board; police and fire local boards; terms and which shall read as follows:

~~Sec. 19-43. Public Safety Retirement System Board; police and fire local boards; terms.~~

~~There shall be a local Public Safety Retirement System Board for Fire-Medical Department employees and for Peace Officer employees who are members of the Public Safety Retirement System. Each board shall have the following membership:~~

~~(a) The Mayor or designee of the Mayor approved by resolution of the City Council for the term concurrent with that of the Mayor. Should the Mayor fail to designate an appointee for a board, the Mayor shall be deemed to be the appointee.~~

~~(b) Two citizens of the City, who shall serve on both the local boards for fire and peace officer employees who, are members of the Public Safety Retirement System. The terms for the citizens shall be as follows:~~

~~(1) One citizen shall serve a term ending on July 1, 2000. Thereafter the citizen appointed shall serve a term of four years.~~

~~(2) One citizen shall serve a term ending on July 1, 2002. Thereafter the citizen appointed shall serve a term of four years.~~

~~(c) There shall be two peace officer members and two Fire-Medical Department members of their respective boards who shall serve a term of four years and shall be elected by secret ballot in accordance with the provisions of this Chapter. The Terms shall be as follows:~~

~~(1) One peace officer and one Fire-Medical Department member shall serve a term that shall end on July 1, 2000. Thereafter each member shall serve a term of four years.~~

~~(2) One peace officer and one Fire-Medical Department member shall serve a term that shall end on July 31, 2002. Thereafter each member shall serve a term of four years.~~

~~(d) Notwithstanding any other resolutions, the terms of board members shall be adjusted to conform to this section. All current non-holdover members shall be deemed elected or appointed in accordance with this section and no new election shall be required.~~

SECTION 31. Chapter 19 of the Peoria City Code (1992) is amended by repealing Section 19-44 in its entirety pertaining to Public Safety Retirement System Board; police and fire local boards; election procedures for employee members and which shall read as follows:

~~Sec. 19-44. Public Safety Retirement System Board; police and fire local boards; election procedures for employee members.~~

~~(a) With the exception of peace officer and Fire-Medical Department~~

~~members of the local whose term expires in 2000, the Office of the City Attorney or any other department designated by the City Manager or their designee shall publish a Notice of Election on or before May 1 of the year in which a term expires. For any vacancy existing on the date of this ordinance, Notice shall be published within thirty (30) days following the date of this ordinance. The published notice shall be placed on file in the Office of the City Clerk and posted at the locations designated for employee notices in the Police and Fire-Medical Departments.~~

~~(b) The Notice of Election shall indicate that any peace officer member or Fire-Medical Department member may be nominated as a candidate for the board by filing a written petition having not less than the names of ten current employed members of the Police or Fire-Medical Department. Only Police Department members may sign police employee nominations and only Fire-Medical Department members may sign fire employee nominations.~~

~~(c) Written petitions must be filed with the Office of the City Attorney or any department designated by the City Manager or their designee within thirty days after the date of the Notice of Election. No candidates other than those who submit written petitions shall be permitted.~~

~~(d) Within one month following the deadline for submission of written petitions, the Office of the City Attorney or any department designated by the City Manager or their designee shall prepare a ballot for the Police and Fire-Medical Department Members containing all designated candidates. The ballot shall also include an envelope for enclosure and sealing of the ballot and shall be mailed or delivered to each employee separately or in conjunction with his or her biweekly payroll documents. In order for the ballot to be valid, the employee must sign the designated area on the envelope used to enclose the ballot. The ballot may be returned personally or by mail in a separate envelope to the Office of the City Attorney or any department designated by the City Manager more than ten (10) days after distribution to the employees. The Director of Human Resources or their designee shall verify the signature on the ballot against the employee record and shall provide all verified ballots to the Office of the City Attorney or any department designated by the City Manager for Tally. The Office of the City Attorney or any department designated by the City Manager shall tally the ballots and shall certify to the Director of Human Resources and each local board the name of the candidate having the most votes. Such candidate shall be deemed elected for the term.~~

~~(e) In the event a seat of an employee member becomes vacant with more than one hundred and eighty days left in the term, a special election shall be held to fill the vacancy. In the event that one hundred and eighty or less days are left, the election may be advanced to fill the remainder of the existing term and the new term.~~

SECTION 32. Chapter 19 of the Peoria City Code (1992) is amended by repealing reserved Sections 19-45 through 19-50 in their and which shall read as follows:

~~Secs. 19-45. through 19-50. Reserved.~~

SECTION 33. Chapter 19 of the Peoria City Code (1992) is amended by amending Section 19-51 and renumbering it as Section 6-19 pertaining to Background investigations; prospective City employees and which shall read as follows:

Sec. ~~19~~6-~~51~~19. Background investigations; prospective City employees

(a) The City Manager or his designee may enter into such agreements as they deem necessary to obtain criminal history information as part of background checks of prospective employees with the City.

(b) All applicants for employment having received a conditional job offer with the City of Peoria in any position involving any of the following:

(1) Direct a~~A~~ccess to City funds and monies
(2) Employees of the Courts, City Attorney's Office, Police Department, and Fire Department~~Access to City and or Court records~~
(3) ~~Acquisition and/or disposition of City Property~~
~~(4) Unsupervised~~Independent contact with minors or vulnerable adults
(4) Any o~~O~~thers as deemed appropriate by the City Manager or Human Resources Director due to the safety or security-related requirements of the position or to ensure compliance with applicable laws.

shall submit a full set of fingerprints to the City for the purpose of obtaining a state and federal criminal records check pursuant to A.R.S. §41-1750 and U.S. Public Law (Pub.L.)92-544. The Arizona Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation.

(c) Secondary dissemination of information obtained pursuant to this section is prohibited, except as permitted by state and federal law. All information obtained pursuant to this section shall be maintained separately from the employee file and shall be destroyed upon expiration of the records retention period required by law.

(d) The City shall provide notice to prospective employee background investigation will be conducted to determine their fitness for employment.

State Law Reference, A.R.S. §41-1750. Department of Public Safety.
SECTION 34. The current sections of Chapter 6 of the Peoria City Code (1992) have been renumbered and/or amended as Chapter 19 pertaining to Cable

Communication Systems by way of a separate ordinance to be submitted to the Mayor and City Council for approval.

SECTION 35. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 36. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 21st day of March, 2017.

Dated: March 23, 2017

Cathy Carlat, Mayor

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Stephen J. Burg, City Attorney

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