

ARTICLE XVIII
MANAGEMENT RIGHTS, A NO STRIKE CLAUSE, AND FIRE CHIEF
APPOINTMENTS

Section 1. Management Rights

The parties understand and agree the City, as a duly constituted home rule municipality under the Constitution and Laws of the State of Texas, hereby retains all those powers, privileges, rights, and authority conferred upon it by law, and nothing in this Agreement shall be construed or interpreted as being in derogation of, or delegation of, those powers, privileges, rights, and authority, other than as required under Chapters 142 and 143 of the Texas Local Government Code.

Section 2. No Strike Clause

The Association shall not cause, counsel, or permit its members to strike, slow down, disrupt, impede, or otherwise impair the normal functions of the Department; nor to refuse to cross any picket line by whoever established, where such refusal would interfere with or impede the performance of the employee's duties as an employee of the City. The City shall not lock out any employee.

Section 3. Fire Chief Appointments of Deputy Chief and Assistant Chief

There shall be two authorized positions in the classification immediately below department head - Deputy Fire Chief and Assistant Fire Chief. The position of Assistant Fire Chief will rank immediately above the position of Battalion Chief and rank below the position of Deputy Fire Chief in the chain of command. The Fire Chief may appoint a single Deputy Fire Chief and appoint two (2) of the four (4) Assistant Fire Chiefs. The remaining two (2) Assistant Fire Chiefs, and any additional Deputy Fire Chief or Assistant Chief positions in the future, shall be filled utilizing the outlined testing and assessment process in Article X of this agreement. At any time the City of Bryan chooses to dissolve/reclassify either the Deputy Fire Chief or Assistant Fire Chief position(s), it shall be from an appointed position and not from a tested position.

Any person appointed to such a position must meet the following conditions for eligibility:

- A.** Meet the requirements for appointment to the classification immediately below that of department head prescribed by Section 143.014(e) of the Texas Local Government Code.
- B.** Qualified members of the Department, if interested, shall request an interview by submitting a letter of intent and resume to the Fire Chief.
- C.** Complete a formal interview and receive approval by a committee consisting of members from various City of Bryan departments chosen by the Fire Chief, and a member of the Association's Executive Board chosen by the Association.

A person appointed under this Article serves at the pleasure of the Fire Chief and, notwithstanding any other provision of this Agreement or Civil Service statutes, all wages, hours, and other conditions of employment regarding the Deputy Fire Chief position shall be subject to change or creation by the Fire Chief in his sole, unfettered discretion. All wages, hours, and other conditions of employment regarding the appointed Assistant Fire Chief position shall mirror the tested

Assistant Fire Chief (non-appointed) positions. Any reclassification of appointed positions will be discussed with the Association's Executive Board at least thirty (30) days prior to implementation.

Any person appointed to either position may voluntarily demote or return, at any time, to the classification from which they promoted. Upon voluntary demotion or return to the previously held classification, the person retains all rights of seniority in the Department.

A person who is removed from the position by the Fire Chief shall be reinstated in the same classification, or its equivalent, the person held before appointment. The person retains all rights of seniority in the Department. No authorized positions in the Department shall be eliminated in order to create this position.

If a person appointed under this Article is charged with an offense in violation of Civil Service rules and is indefinitely suspended by the Fire Chief, the person has the same rights and privileges of a hearing before the City of Bryan's Civil Service Commission in the same manner and under the same conditions as a classified tested employee. If the City of Bryan's Civil Service Commission, a hearing examiner, or a court of competent jurisdiction finds the charges to be untrue or unfounded and overturns the indefinite suspension, the person shall immediately be restored to the same classification, or its equivalent, the person held before the appointment. The person retains all rights and privileges of the prior position according to seniority and shall be repaid for any lost wages, as determined by the Civil Service Commission, hearing examiner, or appropriate court.

Upon the changing of the Fire Chief, all appointed positions shall be reviewed within the first one-hundred and eighty (180) days in office.