

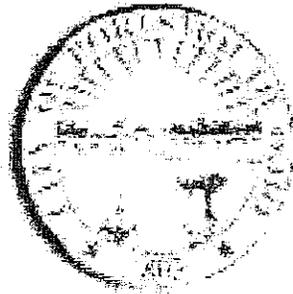


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(and 14-MED-12-1690)  
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# AGREEMENT

By and Between

THE CITY OF PORTSOMUTH, OHIO

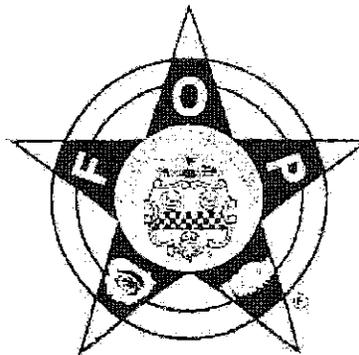


And

FRATERNAL ORDER OF POLICE LODGE No. 33,

THE FRATERNAL ORDER OF POLICE,

OHIO LABOR COUNCIL, INC.



January 1, 2016 through December 31, 2016

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ARTICLE 1:                   AGREEMENT.

- A.     This Agreement is entered into by and between the City of Portsmouth, (hereinafter referred to as the City) and Fraternal Order of Police, Lodge 33 (hereinafter referred to as FOP).
- B.     The City and the FOP recognize that the best interests of public safety, welfare, and convenience will be served by establishing procedures to provide an orderly method for the City and the FOP to negotiate in good faith.
- C.     It is the purpose of this Agreement to achieve and maintain harmonious relations between the City and the FOP and to provide for equitable and peaceful adjustment of differences, which may arise between them, and to establish wages, hours, fringe benefits, and other conditions of employment in the Portsmouth Police Department.
- D.     Nothing contained in this Agreement shall in any way abridge alter, or reduce the authority conferred by the Charter of the City of Portsmouth, Ohio and the Constitution of the United States of America upon any City official.
- E.     No changes in this Agreement shall be negotiated during the duration of this Agreement unless there is a written agreement by and between the parties here to do so, which written agreement shall contain a list of those matters to be the subject of such negotiations. Any negotiated changes to be effective and incorporated in this Agreement, must be in writing and signed by the parties. The City further agrees to enact any necessary legislation to effectuate the Agreement.

## ARTICLE 2: MANAGEMENT RIGHTS.

- A. The Management of the City of Portsmouth has, as it has always had, the exclusive right to manage the business of the City and to direct the working forces. Management's failure to exercise any of its rights under this Agreement does not indicate that Management is unable to exercise such rights in the future. The rights of Management include but are not limited to the right to:
1. Determine matters of inherent managerial policy which include, but are not limited to, areas of discretion or policy such as the functions and programs of the City department, standards of services, its overall budget, utilization of technology and organizational structure;
  2. Direct, supervise, evaluate and hire employees;
  3. Maintain and improve the efficiency and effectiveness of the City's operations;
  4. Determine the overall methods, processes, means and/or personnel by which the Police Department's operations are to be conducted;
  5. Suspend, discipline, demote or discharge for just cause or layoff, transfer, assign, schedule, promote or retain employees;
  6. Determine the adequacy of the work force;
  7. Determine the overall mission of the Police Department as a unit of City government;
  8. Effectively manage the work force;
  9. Take actions to carry out the missions of the Police Department as a unit of local government;
  10. Relieve employees from duties because of lack of work or funds, or under conditions where continued work would be inefficient or nonproductive;
  11. Determine the appropriate job classification and personnel by which government operations are to be conducted not in conflict with this Agreement;
  12. Promulgate reasonable rules and regulations.
- B. In addition, the FOP agrees that all the functions, rights, powers, responsibilities and authority of the City in regard to the operation of its work and business and the direction of its work force, which the City has not abridged, deleted, granted or modified by the provisions of this Agreement are, and shall remain, exclusively those of the City.

ARTICLE 3:                   PREVAILING RIGHTS.

- A.     All rights privileges, and working conditions enjoyed by the FOP at the present time, which are not included in this Agreement or are not in conflict with this Agreement or the Rules and Regulations of the Police Department, shall not be changed until good faith efforts have been exhausted between the Chief of Police or his designee and the FOP.

ARTICLE 4: RECOGNITION

- A. The City agrees to and does hereby recognize the FOP / Ohio Labor Council, Inc., Lodge 33 (hereinafter FOP) and its designated agents or representatives as the sole and exclusive bargaining agent on behalf of the employees set forth below with respect to wages, hours, fringe benefits, working conditions and other conditions of employment. There shall be two bargaining units as follows:
1. All sworn officers employed by the City below the rank of Sergeant.
  2. All sworn officers employed by the City holding the rank of Sergeant and above, excluding the Chief of Police, one Captain and all civilian personnel.
- B. Any dispute involving a position and its inclusion in or exclusion from the Bargaining Unit shall be determined pursuant to the provisions of O.R.C. 4117 and the State Employment Relations Board.
- C. The FOP may have reasonable use of the lounge located in the Police Department to conduct FOP meetings. The FOP is allowed to place ballot boxes in the station to conduct elections. The FOP is allowed reasonable use of bulletin boards located in the Police Station.

ARTICLE 5: NO STRIKE - NO LOCKOUT.

- A. The FOP agrees that neither it, its officers, agents, representatives, or members will authorize, instigate, cause, aid, condone, or participate in any job action, defined to include but not limited to, any strike, work stoppage, slowdown, picketing, work speed-up, interruption of operations by the employees, absence from work upon any pretext or excuse, such as illness which is not founded in fact, or other action or refusal or failure to fully and faithfully perform job functions and responsibilities or other interference with the operations of the City of Portsmouth by the FOP or by its members, officers or agents during the term of this Agreement, including compliance with the request of other labor organizations to engage in such activity. When the Employer notifies the FOP that any of its members are engaged in any such strike activity as outlined above, the FOP shall immediately notify its members that a violation is in progress, and such notice shall instruct Bargaining Unit members to return to work. Accordingly, it is understood and agreed that in the event of any violation of this section, the City shall be entitled to seek and obtain immediate injunctive relief.
- B. It is specifically understood and agreed that the Employer, during the time of any job action shall have the whole and complete right of discipline, including discharge, of such employees engaging in any job action as described in Section A above.
- C. The Employer agrees that it will not engage in any lockout of its employees, which shall be defined as not permitting employees to report to work or to complete their regular workday.

ARTICLE 6:                   NONDISCRIMINATION.

- A.     Neither party will discriminate against any officer based on age, sex, marital status, race, color, religion, national origin, political affiliation, membership or non-membership in the FOP, or an officer's activities as a representative of the FOP. FOP members agree not to let membership or non-membership in the FOP affect their on-the-job relationship with sworn police officers. All reference in this Agreement to the male gender shall be construed to be equally applicable to females.
  
- B.     Both the City and the FOP agree to implement the terms and conditions of the Agreement in accordance with the Americans with Disabilities Act of 1990.

## ARTICLE 7: REPRESENTATION.

## A. FOP Official

The highest ranking FOP official in the bargaining unit, upon election to that post and as long as he continues in that or a higher post (or until another bargaining unit member is elected to a higher FOP post, in which case this Section becomes applicable to him when he takes office), will be permitted (contingent upon sufficient manpower) sufficient time off during the workweek to engage in Collective Bargaining, to be present at hearings before the Chief of Police, Mayor, Civil Service Commission, or court of law, where his attendance is necessary because of his capacity as a FOP official. Whenever possible, non-emergency and routine FOP matters shall be performed while off duty. Whenever such highest ranking FOP official is absent due to approved leave (i.e., sick leave, injury leave, vacation leave, etc.) or City authorized training which is of a duration of more than five (5) workdays, the next highest ranking FOP official who is a member of the bargaining unit shall perform these functions during such absence. During such service in this post, the above designated FOP official shall continue his entitlement to wages, fringe benefits, seniority accrual and all other benefits allowed a bargaining unit member as though he was at all times performing his job-related duties.

- B. During his term in office, the FOP official shall continue to be required to report to his supervisor at his assigned shift starting time, and he shall be required to apprise his supervisor of his whereabouts at all working time he is performing the duties allowed by this Section subject to the approval of his supervisor and/or Chief of Police. In addition, the FOP official will be required to drop or forego any of the activities allowed by this Section, upon the direction of his supervisor, and/or the Chief of Police, for the purpose of assisting in police work. But for an emergency situation, sufficient time to perform FOP function as authorized by this Section will not be unreasonably limited by the City or its supervisors, nor will the FOP official devote unnecessary City-paid time to these functions. None of the duties of the FOP official herein described may be conducted on City-paid overtime hours.
- C. Nothing in this Agreement shall preclude the highest ranking FOP official in the Bargaining Unit from also serving as a Grievance Representative or as Grievance Chairman.
- D. The City agrees that the staff of the FOP / Ohio Labor Council shall be admitted to the City's facilities and work sites for the purpose of ascertaining if matters pertaining to this agreement are being followed, process grievances or attend meetings.

## ARTICLE 8: NEGOTIATION PROCEDURE.

- A. Negotiations shall begin on a date mutually agreeable to the City and the FOP, but not later than sixty (60) days prior to the expiration of this contract. The Mayor and the FOP shall designate persons to serve on their respective negotiations teams and will furnish the names of those so designated to the other party prior to the first meeting. Substitutes for absent negotiators may be designated by either side for good and sufficient reason. Both the FOP and the City shall present written proposals to the other party at or prior to the first negotiation meeting.
- B. If either the FOP or City Council fails to ratify this Agreement in its entirety, the City and the FOP shall resume negotiations in an effort to reach an agreement in compliance with O.R.C. Section 4117.14.
- C. An initial proposal shall be no bar to the introduction of new proposals during negotiations by either party, provided that these proposals are in an effort to successfully complete negotiations in good faith.
- D. Following an agreement by the City and the FOP negotiating teams, the Agreement shall be reduced to writing and submitted to the FOP membership for approval. Following approval by the membership, the Mayor will submit the Agreement to the City Council with his recommendation for approval (although such recommendation does not bind the City Council's accepting the Agreement).
- E. All time spent during regular scheduled work hours by FOP negotiators in the handling of negotiations shall be considered as time worked. The Chief of Police or his designee reserves the right to limit the number of on-duty negotiators.
- F. While discussions are in progress, neither the City nor the FOP shall release progress reports, unless approved in advance by the Chief Negotiator for the City and the Chief Negotiator for the FOP.

ARTICLE 9: GRIEVANCE PROCEDURE.

- A. Grievance defined: A "Grievance" is defined as a difference between the City and the FOP as to the interpretation, application or violation of any specific term or provision of this Agreement, and all such differences shall be settled promptly, in accordance with the procedure set forth herein.
- B. Any grievance involving the application of the rules and regulations and procedure manual of the Police Department shall be initiated at Step 2 of the Grievance procedure and the aggrieved employee shall submit documentation and evidence to support the grievance.
- C. Qualifications.

A grievance can be initiated by the FOP or an aggrieved member. Where a group of members desire to file a grievance involving a situation affecting each member in the same manner, one member selected by such group shall process the grievance as designated representative of the group.

- D. Any officer or group of officers shall have the right to present problems and grievances informally to their shift commander and have such adjusted, provided the adjustment is not inconsistent with the terms of this Agreement.
- E. Procedure.

Grievances must be filed within thirty (15) calendar days of the date of the occurrence, which gave rise to the alleged grievance.

1. STEP 1.

If no satisfactory adjustment is reached with the shift commander within ten (10) calendar days, the aggrieved shall formally present the grievance, in writing, to the appropriate Division Captain. It shall consist of the following information:

- a. the nature of the grievance.
- b. the facts upon which the grievance is filed.
- c. the specific provision of this Agreement violated.
- d. the time, date, and place of the claimed violation.
- e. the remedy desired.
- f. the signature of the employee.

It shall be the responsibility of the appropriate Captain or his designee to investigate the matter and to provide a written answer to the employee within ten (10) calendar days following the day on which the matter was submitted to him.

2. STEP 2.

A grievance unresolved at Step 1 may be submitted by the employee to the Chief of Police or his designee within ten (10) calendar days of the presentation of the Step 1 answer. It shall be the responsibility of the Chief of Police or his designee to investigate the matter and to provide a written answer to the employee within ten (10) calendar days following the day on which the matter was submitted to him.

3. STEP 3.

A grievance unresolved at Step 2 may be submitted by the employee to the Mayor or his designee within ten (10) calendar days of the presentation of the Step 2 answer. The Mayor or his designee shall meet with the employee, and a representative of the FOP if the employee desires, within ten (10) calendar days of submission of the grievance to Step 3, to discuss the grievance. The Mayor or his designee shall provide a written answer to the employee within ten (10) calendar days of such meeting.

4. STEP 4. ARBITRATION.

- a. A grievance unresolved at Step 3 may be submitted to binding arbitration upon request of the FOP.
- b. The FOP, based upon the facts presented, has the right to decide whether to arbitrate a grievance. Within twenty-one (21) calendar days from the date of the final answer on a grievance from Step 2 or 3, whichever is applicable, the FOP shall notify the City of its intent to seek arbitration over an unresolved grievance. The representatives of the parties (the FOP and the City) shall schedule a meeting to be held within fifteen (15) calendar days after notification of a request to arbitrate to begin the selection procedures outlined below. The FOP may withdraw its request to arbitrate at any time prior to the actual hearing. Any cancellation fee due the arbitrator shall be paid by the party or parties canceling the arbitration. Any grievance not submitted within twenty-one (21) calendar day period described above shall be deemed settled on the basis of the last answer given by the Mayor or his representative(s).
- c. After receipt of a request to arbitrate, the representatives of each of the parties (the FOP and the City) shall select an arbitrator. The arbitrator shall be elected in the following manner: The Federal Mediation and Conciliation Service (FMCS) shall be jointly requested to submit a panel list of seven (7) arbitrators. The cost of the list shall be shared mutually by the parties. The parties shall alternately strike the names of arbitrators until only one name remains. Either party may once reject the remaining name and request from the FMCS another list of seven (7) names until a mutually agreeable arbitrator is selected.
- d. The arbitrator shall limit his decisions strictly to the interpretation, application, or enforcement of specific Articles of this Agreement. He may not modify or amend this Agreement.
- e. The question of arbitrability of a grievance may be raised by either party

before the arbitration hearing of the grievance, on the grounds that the matter is non-arbitrable or beyond the arbitrator's jurisdiction. The first question to be placed before the arbitrator will be whether or not the alleged grievance is arbitrable. If the arbitrator determines the grievance is arbitrable, the alleged grievance will be heard on its merits before the same arbitrator.

- f. The decision of the arbitrator shall be final and binding on the grievant, the FOP and the City. The arbitrator shall be requested to issue his decision within thirty (30) calendar day after the conclusion of testimony and argument or submission of final briefs.
- g. The costs of the services of the arbitrator, the costs of any proofs produced at the direction of the arbitrator, the fee of the arbitrator, if any, or the hearing room, shall be paid by the losing party. If the losing party cannot be determined, the Arbitrator shall apportion the cost to each party. The expenses of any non-employee witnesses shall be borne, if any, by the party calling them. The fees of the court reporter shall be paid by the party asking for one, or split equally by the parties if both desire a reporter, or request a copy of any transcript. Any bargaining unit member whose attendance is required for such hearing shall not lose pay or benefits to the extent such hearing hours are during normally scheduled working hours on the day of the hearing.

F. The FOP shall use a grievance form, which shall provide the information outlined in the preceding sections.

G. Time off for Presenting Grievance.

A member and his grievance representative shall be allowed time off from regular scheduled duties with pay for attendance at scheduled meetings under the Grievance Procedure with prior approval of their respective supervisors. Grievance representatives shall be allowed adequate time, as approved by their supervisors, off the job with pay to conduct a proper investigation of such grievance. Such approval will not be unreasonably withheld, and the withholding of such approval shall result in an automatic, equivalent extension of time limits within which a grievant must appeal his grievance or have it heard, or this issue may be added as a part of the grievance.

H. Time Limits.

It is the City's and the FOP's intention that all time limits in the above Grievance Procedure shall be met. To the end of encouraging thoughtful responses at each Step, however, the grievant and the City's designated representative may mutually agree, at any Step, to short time extensions for the City's answer, but any such agreement must be in writing and signed by the parties. Similarly, any Step in the Grievance Procedure may be skipped on any grievance by mutual consent. In the absence of an extension, the grievant may, at any Step where a response is not forthcoming within the specified time limits, presume the grievance to have been denied by the City, and the grievant may proceed to the next step of the procedure herein within the time limits allowed. For the purposes of determining the time limit, in the event of the failure of the City to answer the grievance, it is to be presumed that the grievant's time period for pursuing the grievance to the next Step commences with the last date on which the City should have submitted an answer in

writing.

- I. The Grievance Procedure shall not apply to Patrolmen who have not successfully completed their probationary period on matters related to probationary dismissal.

## ARTICLE 10: INVESTIGATION PROCEDURE.

## A. Investigations Not Leading to Disciplinary and/or Criminal Actions.

When a complaint is made against a bargaining unit member and is not substantiated by any corroborative evidence of any kind, the accused bargaining unit member may be requested to submit a report. If the employer requires a report at this stage, such report shall not become part of any record for further pursuing the complaint. Management reserves the right to orally interview said bargaining unit member regarding such a complaint. Should such a complaint be substantiated by corroborative evidence, then Management may require the bargaining unit member to submit a report.

## B. Investigations Which Could Lead to Disciplinary Charges.

When complaint or internal investigations give rise to activities which could lead to disciplinary action or it becomes apparent such investigations could, bargaining unit members shall be informed in writing of the nature of the investigation prior to any questioning of said bargaining unit member and shall be informed, to the extent known at that time, whether the investigation is focused on the member for a potential charge and the nature of said charge. If the member requests, he should be given a brief time prior to any questioning to locate and review any written documents he possesses regarding event(s) being investigated in order to fully prepare himself to accurately and completely respond to the questioning. An investigating officer may accompany a member during his brief search and review of such documents. Additionally, reasonable opportunity is to be afforded the bargaining unit member to contact and have present a FOP representative with him during any questioning. Nothing in this paragraph shall prohibit the Employer from questioning a Bargaining Unit Member about activities or a complaint, provided, however, that the member's response shall not become part of any record or basis for disciplinary action and the Employer shall follow the procedures set forth above in this paragraph if requested by the member or it becomes apparent that disciplinary action could arise from the activities about which the member is being questioned.

## C. Investigations Which Could Lead to Criminal Charges.

If at the outset or in the course of an internal investigation of a citizen's complaint, probable cause exists to believe that a bargaining unit member may be charged with a criminal offense, in addition to the procedure set forth in paragraph B above, said bargaining unit member shall be advised of his constitutional rights in accordance with law. However, the bargaining unit member shall have only the right to counsel present during investigation.

## D. Any interrogation, questioning or interviewing of a bargaining unit member will be conducted at hours reasonably related to his shift, preferably during his working hours so far as the nature of the investigation and time requirements allow. Interrogation sessions shall be for a reasonable period of time, and time shall be allowed during such questioning for attendance to physical necessities.

## E. Before a bargaining unit member may be charged with insubordination or like offenses for refusing to answer questions or participate in an investigation, he shall be advised that such conduct, if continued, may be the basis for a charge and he shall be advised of his

rights under Garity v. New Jersey for administrative actions.

- F. When a bargaining unit member suspected of a violation, which may lead to discipline or criminal action, is being interrogated in an internal investigation, such interrogation shall be recorded by the Police Department at the request of either party.
- G. A bargaining unit member (and his representative) who is charged with violating Rules and Regulations of the Police Department shall be provided access to transcripts, records, written statements and videotapes. Such access shall be provided reasonably in advance of any hearing.
- H. At the request of either party, interviews with a bargaining unit member conducted during the course of an inquiry will be audio taped. The bargaining unit member and his representative will be afforded the opportunity, upon written request made reasonably in advance of the hearing directly to the Chief or designee, to listen to and make personal notes or verify the accuracy of a transcript regarding a tape made of his interview subsequent to that interview. If a transcript of the tape is made by the City, the bargaining unit member will be provided a copy of each transcript upon written request directly to the Chief or his designee. Whenever a bargaining unit member or his representative requests a transcript of the tape of an interview, the actual expense of transcribing the tape and copying the transcript, as well as any other expenses associated therewith, will be paid in advance by the bargaining unit member or his representative.
- I. All complaints, internal investigations and Departmental charges shall be under the initial province of the Chief of Police or his designee, to investigate such instances. Prior to any suspension without pay, dismissal or criminal charges being taken against any bargaining unit member based on complaints or charges, there will be an independent hearing at which time the bargaining unit member and his FOP representative shall have the opportunity to confront and cross-examine his accuser(s) and offer testimony and other evidence on his own behalf. This includes the right to confront and cross-examine citizens if such citizens are present at said hearing. Reasonable advance notice of a hearing date and time, as well as the charges to be heard, witnesses to be called or whose testimony will be used, and copies of any pertinent evidentiary documents will be provided the member by the Chief in advance of any hearing on the charge.
- J. Departmental Hearings
  - 1. Prior to any Departmental hearing of a bargaining unit member, the member will receive from the Chief of Police a written statement of all charges and specifications. At the hearing the charged member will be allowed to be represented by a FOP representative. At the hearing, the charged bargaining unit member will be advised of his rights under Garity v. New Jersey, 385 US 493, 87 S.Ct. 616 (1987), or Miranda Rights. If a bargaining unit member is read his Miranda Rights, in addition to his/her FOP representative, he/she may have an attorney present to represent him/her. The bargaining unit member or his designee will be allowed to call witnesses material to his defense. The bargaining unit member shall have the opportunity to confront and cross examine his accuser(s).

Hearing will be held in the City of Portsmouth unless an alternative site is mutually agreed upon by the parties.

2. A bargaining unit member who is charged or his FOP representative may make a written request for a continuance. Such request will be granted when practical by the Chief in the case of a pending department hearing. The length of such continuance shall be mutually agreed upon.
  3. The Employer will make all good faith efforts to notify the affected bargaining unit member of any charges or of any decision reached as a result of a Departmental hearing prior to any public statement. A written request directly to the Chief of Police to review his personnel file will be expedited for those bargaining unit members charged with violations and awaiting a hearing so the information requested may be viewed at least twenty-four (24) hours prior to the hearing.
- K. If any of these procedures are violated, such violations shall be subject to the Grievance Procedure beginning at Step 3.
- L. A written departmental reprimand may be issued by the Chief of Police without the necessity for any hearing. A copy of such reprimand shall be sent to the employee.
- M. Serious Violation.
- A formal charge of misconduct shall be in writing stating the alleged violations against any employee. When an employee is charged with misconduct which may result on suspension without pay, reduction or dismissal, within a reasonable time prior to any hearing, he/she shall be given a copy in writing and signed stating the charges and specifications. Findings will be issued to the employee after any hearing for which formal charges and specifications have been prepared.
- N. Discovery.
- Discovery shall be available prior to any disciplinary hearing of evidence to be presented at said hearing. Should any new evidence develop during the hearing, a continuance will be granted upon request so that the new evidence may be reviewed.
- O. Representation.
- Nothing in the representation language in Article 10 or Article 11 shall be construed to interfere with FOP internal procedures according to which bargaining unit member may waive his Union representation rights and substitute counsel of his own choosing to act in place of, but not as an agent of, the FOP. The FOP shall determine the representative or representatives it shall assign to any case.
- P. Use of Polygraph.
- Although an employee is not required to take a polygraph examination, an employee may volunteer to take one and the results of the polygraph may be used by the City in its deliberations. The use of polygraph shall not be used as a precedent in other cases, nor shall the failure to agree to take a polygraph be used as evidence against subject officer.

Q. Relieved of Duty.

Any employee relieved from duty pending a hearing on departmental charges will continue to receive pay if capable of performing duty. An officer charged with any felony violation may be immediately relieved from duty without pay and shall be afforded a hearing within five (5) days.

R. Protection

No member of the FOP bargaining unit shall be investigated because of a Complaint unless the complaint is reduced in writing by that accuser who is making the complaint. The complainant will be advised that criminal charges will be filed against them, under ORC Section 2921.15, if their complaint is found to be false. The Written complaint must be signed by the complainant and notarized by a notary Public, Clerk of Courts, or Deputy Clerk of Courts. No investigation shall commence, on a Member of the FOP, based on an unsigned or anonymous complaint.

ARTICLE 11: CORRECTIVE ACTION.

A. No bargaining unit member who has successfully completed his probationary period shall be reduced in pay or position, suspended, removed or reprimanded except for just cause. The City will cause any disciplinary action to commence within ten (10) days of the date when it was determined or reasonably should have been determined that a violation did in fact occur, or within ten (10) days of the conclusion of investigation of the incident. The principles of progressive corrective action will be followed with respect to minor offenses. The progression will at least include an oral reprimand, a written reprimand, and a suspension for the same or related offenses prior to dismissal unless the specific incident warrants more severe discipline.

B. Duration of Records.

All actions of record including oral reprimands, written reprimands, suspensions, or dismissal will be maintained in each bargaining unit member's personnel file throughout his period of employment, with the exception that during the term of his employment any records of written reprimands will be removed from his file upon the written request of the member two (2) years after such reprimand was given if no further corrective action has occurred, and documentation of oral reprimands will be removed from the file upon written request of the member eighteen (18) months after such was given if no further corrective action has occurred. Records of suspensions of thirty (30) days or less will be removed from a member's file upon the written request of the member four (4) years after such suspension was given if no further disciplinary action has occurred. Suspensions, written reprimands and documentation of oral reprimands so removed from a personnel file shall be given to the member. In any case in which the oral reprimand, written reprimand, suspension, or dismissal is disaffirmed through the Grievance Procedure, or by the Mayor or any court of competent jurisdiction, the member's personnel record shall clearly indicate such disaffirmance. In addition, unsubstantiated or unproven allegations, complaints or misconduct made against a member and appearing in the files of the City shall not be considered in future corrective action or promotional consideration.

C. Review of Personnel Files.

Every member shall be allowed to review his personnel file at any reasonable time upon request to his Chief or his designee. Except for FOP representatives, supervisory and administrative personnel with a legitimate need to know, and except for courts of competent jurisdiction which have subpoenaed them, members' personnel files shall not be shared with anyone outside of the City Administration unless a public records request is made under 149.43 of the Ohio Revised Code. Any member may copy documents in his file once for free, then five (\$0.05) cents copy page thereafter. The City will record each new item entered into a member's personnel file and provide a copy of each new item to the member as soon as practical after it is added to the file. The recorded record will be maintained by the chief or his designee and be available for a member to view upon reasonable request. The City will abide by applicable state and federal law. The member may add his comments on a separate sheet of paper to be attached to any document included in his personnel file. If the Chief concurs with the member's contention that a document is inaccurate, he may remove such document from the file or note his agreement with the member's comments.

D. There shall be only personnel file, maintained by the Chief of Police, which shall be

accessible to members upon request.

E. Release of Personnel Records

Upon request for information contained in a member's personnel file the City shall make every reasonable effort to notify the member prior to releasing the information. The City shall only release what is required by law to release.

ARTICLE 12: WORK RULES AND INFORMATIONAL ORDERS.

- A. The City of Portsmouth agrees that, to the extent possible, work rules shall be reduced to writing and provided to all members in advance of their enforcement.
- B. The Rules and Regulations Manual governing the Portsmouth Police Department shall be provided to all members of the bargaining units and shall not be in conflict with this contract.
- C. Nothing in this Article prohibits the City from promulgating reasonable work rules, procedures and/or regulations to meet changing conditions or technological advances experienced by the City.

## ARTICLE 13: SENIORITY.

- A. For the purposes of this Agreement, seniority shall be defined as time in grade.
- B. Seniority shall determine the selection of future shift assignments caused by vacancies and otherwise; the bargaining unit member leaving a special unit will be able to select a shift based upon seniority. Members who meet the standards set forth by the job description for the specialized unit will be selected by seniority. Job description will be relative to the position and will not be related to prior specialized training or experience the job description will be the minimum (entry level) requirements for the job. i.e. basic swim test would not be unreasonable for boat patrol duties but having the fastest swimmer selected would be unreasonable. Seniority shall be the only determining factor in assignment to special units. The City and the FOP agree that specialized units are any units that officers are assigned to on a full or part time basis that differ from patrol duties. Examples are detectives, K-9, SWAT, SRO, scuba, marine patrol, traffic, task force, etc. Personnel who are assigned to these units currently will be grandfathered in and will remain in place. Removal from a specialized unit will be voluntary or based on job performance. The member will be counseled and given corrective measures to implement prior to removal. The member can be removed for just cause only and a written explanation for removal will be given to the bargaining unit member.
- C. Seniority shall be used in the selection of days off from those days which have been determined by the Chief to be available for days off for each division and shift by rank.
- D. If a member feels his reassignment, or the denial of his selection of days off, or other determination by the Chief under this Article is an abuse of discretion, the member will have a right to file a grievance in accordance with this Agreement.
- E. Shift Bids

Beginning on November 1st of each and every year, the City shall allow all members who are not assigned to a full time specialized unit to pick their shift assignment for the following year. All shift assignments shall start on January 1st. Shift bids shall be for all members assigned to Patrol with the ranks of Lieutenant, Sergeant, and Patrol Officers. The only exception to shift picks shall be for full time specialized units. Full time specialized units mean the member is assigned to that unit for 40 hours a week. Part time or temporary specialized units shall be included in shift bids.

ARTICLE 14:           DEATH BENEFITS.

- A.     Upon the death of any of its employees in the Bargaining Unit, the City shall pay to his Beneficiary (if designated) or his estate a lump sum equal to 100% of his accumulated but unused sick time entitlement based upon the amount the member would have received if he had retired at that time, 100% of his unexpended holiday and vacation leave and any other leave account exclusive of the on-duty injury leave. All eligible amounts shall be paid at the employee's then current rate of pay.

## ARTICLE 15: SICK LEAVE.

- A. Each full-time bargaining unit member working an average of forty (40) hours per week during six or more calendar months per year shall be allowed sick leave with pay of one and one-fourth (1 1/4) workdays for each calendar month of service. Sick leave shall be accumulated on an unlimited basis.
- B. Sick leave shall be given for medical, dental or optical consultation or treatment of an employee or a member of the employee's immediate family living in the employee's household. Sick leave shall be given for sickness of the employee himself, injury to the employee himself, or sickness of a member of the immediate family living in the employee's household, if the sickness requires the presence at home of the employee or his absence from work to attend to the ill or injured family member or the other remaining family members. Sick leave may be granted for other extenuating circumstances at the discretion of the Mayor for good cause as shown by the employee and upon the recommendation of the Chief of Police. Sick leave shall be granted if quarantined because of contagious disease. A certificate from the attending physician shall be required before paying of sick leave for being quarantined.
- C. Nothing in this section restricts the City's ability to implement Section 124.38 of the Ohio Revised Code requiring an affidavit attesting to the employee's illness.
- D. Any bargaining unit member who fraudulently obtains sick leave, or falsifies a sick leave request or sick leave records shall be subject to disciplinary action.
- E. Bargaining unit members who work a calendar year (January 1 – December 31) without any use of sick leave for any reason will be paid an attendance incentive bonus of two hundred dollars (\$200.00). The bonus will be paid at the payroll containing the February 1 pay.

## ARTICLE 16: FUNERAL LEAVE

- A. Employees shall be entitled to a three workday funeral leave with pay, not chargeable to sick leave, upon the death of a member of the employee's or his spouse's immediate family, and when interment of the deceased is within 200 miles of Portsmouth. If the deceased is interred at a place further than 200 miles from Portsmouth, the employee shall be granted five (5) workdays leave. In the event of the death of a relative of the employee or his spouse other than his immediate family, he shall receive, one (1) workday of funeral leave with pay.
  
- B. The immediate family shall consist of the following relatives of the employee: spouse, mother, mother-in-law, stepmother, father, father-in-law, stepfather, son, daughter, stepchildren, brother, sister, grandparent or other relative of the employee living in the immediate household. Funeral leave must be taken on consecutive workdays, one of which must be the date of the funeral or memorial service of the burial which the employee must attend. Special cases may be taken up with the Mayor on the recommendation of the Police Chief.

## ARTICLE 17: RETIREMENT TERMINATION PAY.

- A. All regular, full-time members of the bargaining unit who had accrued unused sick days prior to July 1, 1981, shall have these amounts recorded by the City with a copy for the member. Upon retirement under an official retirement plan, the City shall pay to the employee a lump sum payment within a reasonable time of the employee's retirement based upon the following scale:
1. 100% payment of days accumulated prior to July 1, 1981.
  2. For any days accumulated after July 1, 1981, the days shall be paid at the rate of 1/3 days' pay for each accrued day.
- B. The rate of pay shall be based upon the officer's current rate of pay.
- C. Included in this termination pay shall be all accumulated vacation pay and compensatory time.
- D. An employee who has accumulated sick leave days prior to July 1, 1981, may use sick leave from this total (maximum of 60). In the event that days are used from this amount, the member may replenish these days from future sick leave on the basis of three (3) future days for every pre July 1, 1981 day; however, any employee who, on the effective date of this Agreement, is below the July 1, 1981 accumulation, may restore to that level on a one for one restoration until the 1981 level is obtained and he shall then be governed by the one to three standard. The amount shall never exceed the amount recorded on July 1, 1981 for the purpose of the 100% buy back.
- E. The City will provide a \$3,000.00 life insurance policy for all members of the Portsmouth Police Department who retire after July 1, 1977 who were hired prior to September 1, 1990.
- F. In the event of the death of an employee, sick leave accumulated in accordance with the sick leave provisions of this Agreement shall be paid to the employee's beneficiary in accordance to the formula in this Section.

## ARTICLE 18: INJURY LEAVE.

- A. In the event of a service connected occupational illness or injury in the course of and arising out of employment with the City of Portsmouth, leave of absence with normal pay may be granted by the Mayor upon the recommendation of the Chief of Police for up to ninety (90) calendar days. Any such request must be accompanied by proper medical documentation; an independent statement from a chiropractor is not acceptable. Injury leave will be denied an employee when Management has determined the injury has resulted from horse play or negligence by the employee. An employee will be notified in writing by Management if his/her request is denied and the reason therefore. The length of injury leave shall be based upon the advice of the attending physician and in the event of a dispute as to the length of leave authorized therein, the City and the FOP shall mutually agree on a disinterested physician to make the final determination which shall be binding upon both parties. The cost of the disinterested physician shall be paid by the Lodge 33 FOP. Further leave may be granted with the approval of the Mayor as set forth hereinafter.
- B. The Mayor's approval of injury leave in excess of ninety (90) calendar days shall be based on the medical recommendation provided for above and the recommendation of the Chief of Police. The Mayor and the Chief of Police shall consider the extent and nature of the injury based on available medical records, employment record and history of the employee, prospects for disability retirement and such factors as they deem relevant to the claim.
- C. The Mayor has the authority to deny a request for injury leave and to charge the requesting employee with sick leave for time missed from work.
- D. Any employee utilizing injury leave shall not perform any work for which he would receive compensation during said leave without authorization of the Chief of Police.
- E. Workers' Compensation.
1. At the expiration of the injury leave granted, if the employee is still unable to return to work the employee may avail himself of his accumulated sick leave. If the employee is still unable to work, payment of normal wages or salary will be stopped, and the Industrial Commission will be requested to begin weekly payments under the provisions of the Workers' Compensation Act.
  2. Upon the filing of a Workers' Compensation claim for a work-related injury or illness, the employee shall sign an agreement that the City will be reimbursed by a check from the State Bureau of Workers' Compensation made payable to the City and mailed to the City of Portsmouth. This is while the City is paying the employee his/her salary during the period the employee is on injury leave for a work-related injury. Upon receipt of the check, the amount of sick leave days being charged to the employee will be reduced commensurate with the portion of the employee's salary which is reimbursed to the City by the Bureau of Workers' Compensation. In the event the injured employee receives a check from the Workers' Compensation weekly wages, the employee agrees to endorse the check payable to the City. Under no circumstances is an employee to receive payment from the City and the Bureau of Workers' Compensation concurrently.
- F. Reinstatement.

1. An employee absent from work because of any service connected occupational illness or injury as determined by the Industrial Commission shall be entitled to reinstatement at the grade and step of pay he held immediately prior to the date of such illness or injury, upon approval of his application to return to work.
2. The City reserves the right to require medical certification of readiness and physical capability to perform the duties of a police officer in the City of Portsmouth as a condition precedent to reinstatement.

G. False Claim.

The City reserves the right to withhold benefit payments or take disciplinary action up to and including discharge against any employee who is guilty of submitting a false claim for benefits covered in this Article or for working for another employer while on sick leave or injury leave.

- H. If court action is initiated by the employee, the City may join in the litigation to protect its rights.

A member may be required to participate in work well program to be eligible for injury leave under this article.

## ARTICLE 19: SPECIAL LEAVES.

## A. Military Leave.

City employees who are members of the Reserve or National Guard components of the Armed Forces will be granted military leave of absence in accordance with ORC 5923.05. Proof of assignment shall be provided in the form of a copy of the military assignment and the military pay stubs, or a copy which shall be given to the Chief of Police.

## B. Jury and Witness Duty Leave.

While serving on a jury in any court of record in Ohio, an employee shall be paid his regular salary for each of his regularly scheduled workdays so served. Any jury duty pay received by any member who serves on a jury during his regularly scheduled workday shall be turned over to the City immediately. Time so served on a jury shall be deemed active service with the City for all purposes. This applies to any court to which the officer has a legal obligation to report. If an officer has been summoned to report for jury, he shall not be required to work regular duty for at least an eight (8) hour period prior to the time he is to report to the court. Should his jury duty be completed prior to completion of the eight (8) hour workday, he shall return to work for completion of eight (8) hours. Employees will not be compensated for any court related service in which the employee has a personal interest or for any witness service which is in a non-work related civil case.

## C. Examination Leave.

Time off with pay shall be allowed City employees participating in City Civil Service test or taking a required examination pertinent to their City employment before a State or Federal licensing board.

## D. Family and Medical Leave.

In accordance with the Family and Medical Leave Act of 1993, bargaining unit members who have worked at least 1,250 hours in the past twelve (12) months shall be annually entitled to a maximum of twelve (12) weeks of unpaid leave for the following reasons:

1. the birth of and care for a newborn son or daughter;
2. for a placement of a son or daughter with a bargaining unit member for adoption or foster care;
3. to care for a seriously ill spouse, child or parent; or
4. because of their own serious health condition.

Entitled to leave pursuant to D(1) above or D(2) above shall end upon the child reaching age one (1) or twelve (12) months after the date of adoption or foster placement.

Bargaining unit members must give the City at least thirty (30) days notice, or as much notice as is practicable in foreseeable situations.

After applying for leave under this section, bargaining unit members may be required to use their accumulated paid leave prior to using unpaid leave, not to exceed a maximum combination of twelve (12) weeks. (For example: 4 weeks of paid sick leave and 8 weeks

of unpaid leave combination.)

Provided the employer notifies the employee of such requirement upon request for leave, medical certification shall be required to substantiate leave for the reasons stated in D(3) and D(4) above; with the Employer having the option of requiring a second opinion at the Employer's expense. Medical certification shall include the following:

1. the date of the condition began;
2. the probable duration of the condition;
3. appropriate medical facts regarding the condition and necessity for leave; and
4. a statement that the bargaining unit member is unable to perform the essential function of his or her position during this period of leave.

Bargaining Unit members may be entitled to use family and medical leave on an intermittent or reduced leave schedule basis upon mutual agreement between the Employer and the employee and provided all requirements set forth above have been satisfied.

1. When a bargaining unit member uses family and medical leave on an intermittent or reduced leave basis, the Employer may temporarily transfer the Bargaining Unit member to an alternative position with equivalent pay and benefits which would better accommodate the recurring periods of leave and not disrupt the services provided to the public. Upon return from leave, the bargaining unit member shall be restored to his/her former position or an equivalent position.

Health insurance benefits shall continue during the period of family and medical leave, not to exceed a total of twelve (12) weeks per year with the Employer paying the Employer's share of the health insurance premium. The employee must make arrangements for payment to continue for any portion of the health insurance premium which he or she is obligated. The Employer may recover any premiums paid if the employee fails to return to work for a period of at least thirty (30) calendar days unless the failure to return was due to the continuance, recurrence or onset of a serious health condition or due to other circumstances beyond the bargaining unit member's control.

For the purposes of this Article, the following definitions shall apply:

1. "Serious Health Condition" - an illness, injury, impairment or physical or mental condition which involves inpatient care of three (3) days or more in a hospital, hospice, or residential care facility; or continuing treatment of at least two (2) or more visits or supervision by a health care provider; or treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of health care provider.
2. "Reduced Leave Schedule" - a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of a bargaining unit member.

ARTICLE 20: CREDIT UNION AND MISCELLANEOUS DEDUCTIONS.

- A. The City shall make payroll deductions for each employee who requests same for authorized amounts of deductions to be sent to the Credit Union and/or Christmas Club of his choice in agreement with the bank or credit union.

## ARTICLE 21: LEGAL REPRESENTATION.

- A. The City agrees to furnish an attorney through the City Solicitor's Office for the defense of a police officer for any charges filed against the officer and/or any civil proceedings which are initiated against the officer resulting from an action taken in performing his/her official duties. If the attorney furnished by the City is not acceptable to the officer, he shall have the opportunity to be represented by counsel or co-counsel to specifically protect his interests.
- B. Should the City elect not to furnish an attorney, and further, if the accused officer is found not guilty or a verdict rendered in his favor in the civil suit, then the City hereby agrees to recompense said officer for legal expenses in connection with said suit. No such compensation need be paid if the officer avails himself solely of the FOP legal defense.
- C. At any time should the City initially represent the officer, said representation is to be for the entire pendency of the lawsuit unless both parties mutually agree otherwise.
- D. It is understood that no criminal action prosecuted in Municipal Court shall give rise to legal representation by the office of the City Solicitor. However, should the officer be found not guilty or if the matter is dismissed in Municipal Court, then the officer is to be reimbursed for his legal expenses. In the event that the parties mutually agree to an out of court settlement in a civil suit, the determination as to payment of the legal expenses of the officer shall be considered as part of the settlement in a manner which is mutually agreeable to the officer and the City.
- E. A member shall not be entitled to reimbursement for an attorney or the furnishing of an attorney at City expense whenever the member is dismissed as a result of a violation of departmental rules and regulations or misconduct that gave rise to the criminal or civil action.
- F. However, in the event the final judgment is that the employee is not guilty and is entitled to be reinstated without penalty and without discipline, the City will pay the employee's attorney fees at the hourly rate charged by the attorney or the hourly fee paid by the City for similar legal expenses, whichever is less. No such compensation need be paid if the officer avails himself solely of the FOP legal defense.
- G. The City, by and through the office of the City Solicitor, hereby agrees to furnish legal counsel to the Police Department for training, legal education, assistance in case preparation, preparation of search warrants, advice as to arrest, search and seizure and all other legal questions related to the carrying out of his/her official duties. Access to these functions will be provided as the need arises.

## ARTICLE 22: PERSONAL ARTICLES.

- A. Personal articles not covered by a City insurance plan or a personal insurance plan and destroyed, damaged, lost or stolen in the line of duty, may be replaced or repaired by the City at the City's expense. Any personal article except dentures having a value in excess of \$200 must be approved by the Chief for use/wear while on duty or will not be subject to the provisions of this Article. An employee must file a report of the loss or damage within forty-eight (48) hours of discovery stating the circumstances involved.
- B. Replacement or repair of the personal article up to one hundred dollars (\$100.00) must be approved by the Chief of Police. Personal articles are defined as watches, eyeglasses, dentures, rings, contact lenses, and officer owned equipment (nightsticks, etc.) and any other article approved by the Chief of Police. This article does not apply to loss or damage due to inattention of the officer.

ARTICLE 23: CLOTHING AND EQUIPMENT.

- A. All new officers who have reached the rank of Probationary Patrolman shall receive an initial issue of uniforms and equipment which shall meet the current standards of the Police Department, to include at least the following items:
1. 5 long sleeve uniform shirts.
  2. 5 short sleeve uniform shirts.
  3. 1 white long sleeve uniform shirt.
  4. 1 short sleeve uniform shirt.
  5. 5 pairs of uniform pants.
  6. 1 ke-style jacket.
  7. 1 winter jacket.
  8. 1 white uniform cap.
  9. 1 blue uniform cap.
  10. 1 blue tie.
  11. 1 tie bar.
  12. 1 pair of shoes.
  13. 5 pair of socks.
  14. 1 raincoat.
  15. 1 small set of collar brass.
  16. 1 whistle and whistle chain.
  17. 2 breast badges.
  18. 1 hat badge.
  19. 1 inner pants belt.
  20. 1 duty belt.
  21. 4 belt keepers.
  22. ASP.
  23. 1 set handcuffs.
  24. 1 handcuff case.
  25. 1 holster for department issued firearm.
  26. 1 dual ammunition holder for duty belt.
  27. 1 flashlight.
  28. 2 name plates (bars).
  29. Body armor approved by the Chief of Police.
  30. 1 set large collar brass.
  31. 1 ASP holder.
  32. 1 Department issued firearm.
- B. The City will not be responsible for the purchase of, or payment for, any items not on the above list for officers who hold the rank of Police Recruit.
- C. The City may re-issue items which are in good serviceable condition.
- D. All members of the Department shall receive an annual uniform allowance of one \$1000.00. The clothing allowance shall be paid by separate check on the first pay period in February of each year. In the year of promotion an officer receives an additional \$150.00 credit to this uniform allowance.

Members who separate from service with the City, shall be responsible for reimbursement for the greater portion of each month on a pro rated basis. It is also understood that the City will pro rate payment by the same method to officers who reach the Rookie Patrolman (pay range 2) step, at which time they become eligible for the uniform

allowance.

- E. Items listed under Section A of this Article shall be returned to the City, or satisfactorily accounted for if the employee's employment terminates within eighteen (18) months of issue of any item, unless such termination is the result of a retirement. Officers who retire in good standing from the department, will be permitted to purchase their departmental issued firearm (1) for one dollar (\$1.00). This shall be retroactive to January 1, 2002.
- F. Items (issued under paragraph A or B above) destroyed or damaged in the line of duty through no fault or negligence of the officer will be replaced on a first come first served basis. Officers are required to submit a written report to the Chief of Police detailing the circumstances involving the lost or damaged items within twenty-four (24) hours of the occurrence or as reasonably soon as possible. Officers are required to wear body armor at all times while working scheduled hours or non-scheduled overtime hours.
- G. The City will reimburse all officers who successfully complete their probationary period for all uniforms and equipment required for attending and exclusive use of any basic police academy. The officer will present the receipts to the Chief of Police within thirty (30) days of completion of the probationary period.
- H. The City shall pay the initial cost of any uniform, equipment or weapon change such as style, make or color as ordered by the City. Thereafter, members shall maintain and replace all items with the exception of items damaged in the line of duty, weapons and equipment other than personal uniform and equipment. The City shall set the standards for uniforms and firearms.

ARTICLE 24: LIFE INSURANCE.

- A. The City shall provide for all members of the bargaining unit a group term thirty thousand dollar (\$30,000.00) with double indemnity AD & D life insurance policy that shall contain no occupational exceptions concerning on-duty death.

## ARTICLE 25: PAY RANGES.

- A. The following job positions and method of reaching the classification are hereby established:
- |                |  |
|----------------|--|
| Police Recruit | Police Civil Service Test passed; schooling not yet completed. Once schooling is successfully completed, the Recruit moves to Pay Range 1 and begins progression through the Pay Ranges listed below. The date of appointment as a Probationary Patrolman will serve as the date of service. |
| Pay Range 1.   | Probationary Patrolman - from the date of completion of school to completion of one (1) year or 365 days of continuous employment.   |
| Pay Range 2.   | Rookie Patrolman - from completion of probationary period to completion of one (1) year or 365 days in Pay Range 2 of continuous employment.   |
| Pay Range 3.   | Patrolman - from two years of service until three years of service.  |
| Pay Range 4.   | Top Step Patrolman A - from three years of service until four years' service.  |
| Pay Range 5.   | Top Step Patrolman - after completion of one year in Pay Range 4.  |
| Pay Range 6.   | Sergeant.  |
| Pay Range 7.   | Lieutenant.  |
| Pay Range 8.   | Captain.   |
- B. During the term of this Agreement the officers shall be paid in accordance with Appendix A of this Agreement.

## ARTICLE 26: VACATION, HOLIDAYS AND LONGEVITY DAYS.

## A. Vacation

1. All regular employees of the City shall earn annual vacation leave credit with pay according to the following schedule:

COMPLETED YEARS OF SERVICE	VACATION LEAVE IN HOURS
1-4	80
5-9	120
10-14	160
<u>15-19</u>	<u>200</u>
<u>20+</u>	<u>240</u>

Completed years of service shall be calculated based upon the anniversary date of hiring day of each member. All vacation credit except the first twelve (12) month period shall be computed as of January 1 and shall include years of service to be established during that year. New full-time members shall not be entitled to the establishment or use of vacation credit until completion of their first year of service.

2. Vacation schedules shall be arranged according to department policy, seniority being used as the basis of selection.
3. All vacations provided for in this section are noncumulative from year to year, unless otherwise approved by the Chief of Police as described below, and shall be taken only with the approval and consent of the Chief of Police. December 31 of each calendar year terminates the vacation privileges for that year; however, the member may apply in writing to the Chief of Police for an extension of his vacation privilege.

Such written request shall state the reason for the extension to include why the member could not take his vacation during the year in which it should have been used, and/or why the member needs to carry over vacation to the next year. The Chief of Police shall review each request and respond in writing. If an extension is allowed, such carried over vacation privilege does not entitle the member to any additional priority in selection other than that given in this Article. An extension is valid until June 30 of the following year and may be further extended to December 31 of that year upon a subsequent written request granted by the Chief of Police.

By no means can it be carried over into the second succeeding year without distinct approval of the Chief of Police. Such request for vacation extension shall not be unreasonably denied.

4. All special questions or instances arising as to the interpretation of this section shall be resolved through rules and regulations established by the Chief of Police.
5. All employees allowed vacations under this section shall draw from the City their

regular salary or wages during such vacations.

6. If it becomes necessary for Management to deprive a member from taking his scheduled vacation, then management will provide that member with preference as to the choice of an available vacation period which can be scheduled. If the member is unable to take all of the vacation time to his credit during the vacation year because of changes in schedule ordered by management, then the member's remaining vacation credits shall be carried forward into the following calendar year.
7. Vacation schedules for selection of vacation time shall be posted by the City on or before January 1st of each year and shall be divided into the following groups: patrolmen by shift, supervision by shift and detective division. Within each division and shift, first rank and then seniority shall be used to select vacations. Vacation and holiday time may be selected to be taken at one time. If an employee desires to select holidays separate from vacation, then after all members on the list have selected vacations, it shall be returned to the senior man who shall select holiday days on a random arrangement and then on down the seniority list. Any employee selecting holiday time on a random basis may request to take holiday time earlier than his selection with the permission of his supervisor, but the employee must take his time as selected if not taken before that time.
8. If an employee fails to make selection within a reasonable time, then his supervisor may select and assign vacation and holiday time for the employee.
9. Vacation and holiday time may be varied for good cause by mutual agreement of the employee and the City so long as it does not interfere with a selected vacation or holiday by another employee.

B. Legal Holidays Enumerated.

1. The following days shall constitute legal holidays for all sworn officers of the Police Department.
 

January 1	New Years Day
3 <sup>rd</sup> Monday of January	Martin Luther King Day
Presidents' Day	
Friday Before Easter	Good Friday
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in Sept.	Labor Day
November 11	Veteran's Day
4 <sup>th</sup> Thursday in Nov.	Thanksgiving
December 24	Christmas Eve
December 25	Christmas Day
December 31	New Years Eve

(To be awarded as 12 hours compensatory time)  
 The employee's birthday  
 One (1) Floating holiday to be taken at the discretion of the employee.
2. On January 1 of each year, after completion of the first year of employment, each

member of the Bargaining Unit will receive thirteen (13) Holidays, or days off from regular work. These Holidays will be compensated at the member's regular rate of pay.

3. On each of the above-enumerated Holidays, each member of the Bargaining Unit who does not work the holiday will receive holiday pay of four (4) hours of compensatory time or four (4) hours of pay at the member's regular rate of pay. Any member of the bargaining unit who works the holiday will receive pay of eight (8) hours regular pay plus an additional four (4) hours regular pay, equaling a total of twelve (12) hours for the eight (8) hours worked. This time may be taken in either payment or compensatory time.

C. Vacation Sell Back.

Employees of the Police Department may trade up to eighty (80) hours of vacation, holiday or longevity days off to the City at his prevailing wage rate.

The City shall design a form to be used for this purpose and provide them to members of the bargaining unit at convenient locations. No more than eighty (80) hours annually may be sold to the City. The days shall be in no smaller increments than five (5) days, and may be sold at any time during the year and only paid on a regular pay period or payday.

D. Longevity Days Off.

All regular full-time officers in the ranks of the Police Department shall receive paid longevity days as follows:

Years of Service	Days off
5	1
10	2
15	3
20	4
25	5

## ARTICLE 27: EMERGENCY CALL TIME AND COURT TIME.

- A. Any employee called to work outside his regular scheduled shift shall be paid for a minimum of three (3) hours work. All hours worked shall be paid at the rate of time and one-half (1 1/2).
1. The only exception to this would be the advanced scheduling of training sessions, which shall be for no less than two (2) hours duration (pay purposes). All training sessions attended while an officer is not scheduled for regular work shall be paid at the appropriate rate for time actually attended without deduction for breaks, provided the officer is in departmental uniform.
  2. The scheduling of an officer to report for his assigned shift or remain after his assigned shift, in which case the amount of paid time shall be only for the actual hours worked with no minimum at the rate of time and one-half (1 1/2).
- B. Employees required to attend, during off-duty time, any proceedings (criminal, civil, or hearings of any type or any departmental investigation) arising directly or indirectly out of official police duties shall be compensated for that time at the rate of time and one half (1 1/2). If the court or hearing is located outside of Scioto County, the officer shall be compensated from the time he leaves home for the appearance until he returns to Scioto County. A minimum of (3) three hours shall be paid for each appearance. The employee shall turn in a statement that he attended court during this off-duty time showing the amount of time he attended. Any witness fees paid to the employee shall be turned into the City Auditor. If a City vehicle is used, any mileage reimbursement shall be turned into the City Auditor or deducted from the employee's pay.

ARTICLE 28: HOURS OF WORK AND OVERTIME.

A. Compensatory Time.

Compensatory time off in lieu of overtime pay shall be granted at the option of the employee. It shall be given at the rate of time and one half (1 1/2) for actual hours worked and may not be accumulated in excess of one hundred and twenty (120) actual hours of work hours off. The City shall monthly post a list of the employee's accumulated compensatory time. To accumulate compensatory time the officer shall have noted on the daily attendance sheet if he desires to be paid overtime or have it accumulated as compensatory time. Upon written notification to the payroll clerk, an officer shall be paid for his accumulated compensatory time, up to eighty (80) hours at a time, at any time during the year on the next available payroll period check.

B. Overtime.

1. Bargaining unit members shall be compensated at straight-time rates for all hours worked or in pay status totaling in excess of the eight (8) hour standard workday and all hours worked or in pay status in excess of forty (40) hours in any work week shall be compensated for at one and one-half (1 1/2) times the member's regular, straight-time hourly rate, except as provided in Section A.
2. Payment of overtime rates shall not be duplicated for the same hours worked. Hours compensated for at overtime rates shall not be counted further for any purpose in determining overtime liability under the same or any other provision of this Agreement.

C. Payment Upon Termination.

Upon separation from employment with the City for any reason, members shall be entitled to compensation at their then current rate of pay for accrued and unused compensatory time accumulated.

D. Overtime Scheduling.

1. Good faith efforts will be made, consistent with efficient and effective operations of the Department, to rotate prescheduled overtime among all qualified bargaining unit members. Inability to work a prescheduled overtime assignment due to illness or death in the family will not require the member to charge such absence against sick leave.
2. The City shall establish a procedure that allows for equal overtime opportunities for all members of equal rank. This does not mean that overtime hours shall be equaled, but that they shall be offered on an equal basis. Court time shall not be considered in this equalization.

E. Shift Differential.

Shift differential of fifty cents (.50) per hour in addition to their regular rate of pay when they are performing work during the hours from 4:00 p.m. to 8:00 a.m.

F. Briefing Time.

All officers shall report to duty for briefing fifteen (15) minutes before the beginning of their daily shift. Officers shall receive as compensation for this briefing attendance payment at one and one - half (1 ½) times the member's regular rate of pay for each day in which they report to work fifteen (15) minutes, and attend a briefing meeting, before their assigned eight(8) hour shift.

G. Job Security.

In the event that a position being held by a bargaining unit member is eliminated, such position shall not be filled by an employee from outside the bargaining unit. Further, if a position outside of the bargaining unit and police department is eliminated or becomes vacant, such position shall not be filled by a bargaining unit member. This section shall not prohibit the City from having a bargaining unit member fill a position in the police department that is outside the bargaining unit in an emergency situation on a temporary basis.

H. Acting Pay.

Any member who is assigned to perform the work of a higher pay range or position as listed in Article 25 will receive the higher rate of pay for all hours the member performs work in that higher pay range or position. The shift officer making the change to the higher pay range assignment will be responsible for all approvals and reporting for all pay purposes. The FOP agrees this section does not constitute a promotion.

## ARTICLE 29: HEALTH INSURANCE.

- A. The City shall annually compute the cost of health insurance for the preceding year and determine the amount of the premium for both the family contract and for the single contract. Costs to be included are the amounts spent for hospitalization, dental and vision coverage, plus administrative and stop-loss fees. The exclusive representative shall be informed and all calculations explained.

Employees shall pay a share of said premium costs. Members enrolled with a family plan shall pay two hundred (\$200.00) dollars each month and members enrolled with a single coverage plan shall pay eighty (\$80.00) dollars each month as a share of the premium costs. Said employee payment will be deducted from the employee's bi-weekly regular payroll checks, the monthly deduction split equally.

- B. The City reserves the right to remain self-insured or to change to a health services provider authorized to do business in the State of Ohio, provided the coverage made available by such provider is substantially the same as currently available to employees. The City will not be responsible for changes unilaterally imposed by an insurance provider for benefits, co-payment provisions or deductibles so long as the City uses its best efforts to minimize changes. The exclusive representative will be informed of all changes in advance of the effective day.
- C. The City reserves the right to institute cost containment measures relative to insurance coverage so long as the basic level of insurance benefits remains substantially similar to the health insurance program in effect at the time this Agreement is signed. Such changes may include, but not be limited to, mandatory second opinions for elective surgery, pre-admission and continuing admission review, preferred provider provisions, prohibition on weekend admissions except in emergency situations, and mandatory out-patient elective surgery for designated surgical procedures.
- D. The extent of coverage under the policies referred to herein shall be governed by the terms and conditions set forth in the policies and plans. Any questions or disputes concerning these policies or plans or the benefits thereunder shall not be subject to the grievance procedure of this Agreement, nor shall any liability accrue to the City. This agreement shall not relieve any insurance carrier or plan administrator of any liability it may otherwise have to the City, or any member or dependent of a member of the bargaining unit.
- E. Effective for contract year 2014, either party may reopen this Article for purpose of negotiating Section A. Chapter 4117 of the Ohio Revised Code regarding notice to negotiate will be followed.

ARTICLE 30: TUITION REIMBURSEMENT DELETED

## ARTICLE 31: DUES DEDUCTIONS.

- A. The Employer agrees to deduct from the wages and salaries of the bargaining unit members dues required by the FOP/OLC by payroll deduction. All members of the bargaining unit all either become dues paying members of the FOP/OLC, or as a condition of continued employment, remit to the FOP/OLC a fair share fee in the amount set by the FOP/OLC per person per month in accordance with the provisions of O.R.C. 4117.09 (c), starting the thirty-first (31) day of employment with the employer or execution date of this Agreement, whichever comes first.
- B. Dues and Fair Share Fees shall be paid over by the Employer once each month to the FOP/OLC at 222 East Town Street, Columbus, Ohio 43215-4611 or such address as set by the FOP/OLC from time to time.
- C. An employee shall have the right to revoke such authorization by given written notice to the Employer and the FOP at any time during the fifteen (15) day period preceding the termination of this Agreement, and the authorization card shall state clearly on its face the right of employee to revoke during that period.
- D. The Employer's obligation to make deductions shall terminate automatically upon timely receipt of revocation of authorization or upon termination of employment or transfer to a job classification outside the bargaining unit.
- E. The FOP will indemnify and hold the Employer harmless from any action growing out of deductions hereunder and commenced by an employee against the Employer.
- F. All bargaining unit employees who are not members of the FOP/ Ohio Labor Council shall pay a fair share fee to the FOP in the amount of employee dues as set by the FOP/OLC from time to time. The deduction to the fair share fee from any earnings of the employee shall be automatic and does not require written authorization for payroll deduction. Payments to the FOP of fair share fees shall be made in accordance with the regular dues deductions as provided herein.

ARTICLE 32: HEALTH AND SAFETY.

- A. To insure insofar as possible and contingent upon available funds that all necessary facilities, vehicles, supplies, radio communications equipment, and all other equipment are in the best and safest possible working conditions so that members may safely and effectively carry out their duties. The City shall attempt to prevent a condition or not allow a condition to exist which may significantly endanger members of the bargaining unit in the performance of their duties.
- B. Department members are responsible for observing all safety rules and regulations and reporting all accidents within twenty-four (24) hours, or in a timely manner.

ARTICLE 33:           SOLE RECOURSE.

- A.     This Agreement will be the sole recourse available to employees represented by the Union accordingly under Ohio Revised Code Section 4117.10(A).
- B.     This Agreement supersedes all other agreements, clauses and memorandums between the City of Portsmouth and employees in the bargaining unit and, unless made a written part of this Agreement, shall be considered null and void on the effective date of this Agreement.
- C.     Any disputes which arise during the term of this Agreement relating to hours and terms and conditions of employment shall be resolved according to O.R.C. 4117.14.

## ARTICLE 34: ALCOHOL AND DRUG TESTING.

- A. Alcoholism or drug abuse or addiction are recognized by the parties as interfering with the Employer's services and as posing a danger to the public's health and safety as well as that of the employees. It is recognized that the Employer and the employees have the right to insist on an alcohol and drug-free environment and to be free from direction by any individual where probable cause exists to believe that individual to be under the influence of alcohol or drugs. The parties agree to cooperate in encouraging employees afflicted with alcoholism or drug addiction to undergo a coordinated rehabilitation program. The City has the right to random test any employee of the Police Department on duty. The choice of which employee to test will be determined by Southern Ohio Medical Center and will be generated by computer program at SOMC.
- B. Appropriate Management or supervisory personnel may also order any on-duty employee of the Department to undergo a drug or alcohol screening test whenever there is probable cause to believe an employee has used or is under the influence of illicit drugs, alcohol or controlled substances while on the job. An employee may of his own volition, even if he is not ordered to do so, may undergo a drug or alcohol screening test if he is involved in an accident or injury while on the job. Testing done under these circumstances will be treated in the same manner as if the employee had been ordered to undergo screening.
- C. All tests will be conducted by certified professional personnel. If the tests are positive, indicating that the employee has used illicit drugs, alcohol or controlled substances, the Employer will have the employee's specimen given a confirmatory test at a different laboratory. A split sample from the original specimen will be available to the employee for testing at the employee's cost. A positive result from an alcohol test means a level of impairment as outlined under O.R.C. 4511.19(A). The Employer may suspend the employee without loss of pay before the time the confirmatory test results are complete.
- D. If the screening test and confirmatory test are positive, the Employer may discipline the employee unless the employee enrolls in a rehabilitation or detoxification program. Such discipline will be in accordance with Article 11 of this Agreement. An employee who notifies the Employer that he is an alcoholic or drug addict may be required to participate in a rehabilitation or detoxification program. An employee who participates in a rehabilitation or detoxification program shall be allowed to use sick leave, vacation leave, personal days or compensatory time while he participates in a rehabilitation or detoxification program. If no such leave credits are available, such employee will be placed on a leave of absence without pay for the period of the rehabilitation or detoxification program. Employees off the payroll or on paid leave under this Section do not carry a firearm and do not possess the power of arrest. Upon the completion of such program, if a retest demonstrates that the employee is no longer abusing alcohol or drugs, the employee shall return to his position. Such employee may be subject to periodic random retesting for drugs or alcohol upon his return to his position for a period of one (1) year.

- E. If the employee:
1. refuses to take a screening or confirmatory test or to undergo rehabilitation or detoxification;
  2. fails to complete a program of rehabilitation or detoxification; or
  3. tests positive at any time within one (1) year after his return to work upon completion of a program of rehabilitation or detoxification,

Such employee shall be subject to disciplinary action up to and including discharge.

- F. All test results and actions taken under or pursuant to this Article shall be kept confidential in accordance with state and federal law.
- G. The Employer shall only be liable for the costs of insurance.
- H. The Employer shall use the drug testing procedure in good faith. It shall not be used as a method to harass employees.
- I. Employees must notify the Employer of any prescription drug use, which may affect his job performance.

## ARTICLE 35:

**PHYSICAL FITNESS****Purpose:**

The City and the Lodge recognize and agree that the maintenance of good health and physical fitness is beneficial for the efficiency and well being of all members. Therefore, a fitness program has been developed that encourages acceptable levels of physical fitness.

Participation in the program is mandatory for all members under the age of 48 years. Members 48 years old or older are exempt from testing; however they may participate in the testing to receive incentives. The goal of the program is to promote good health and fitness, reduce health care costs, minimize illness and injury, and to provide incentives for members to make good choices regarding lifestyle habits.

**Fitness Program Testing:**

Fitness program testing shall be administered by an OPOTA certified physical fitness instructor.

The following provisions apply to the scheduling of fitness program testing.

- A. Testing will be scheduled with at least thirty (30) days notice to members.
- B. Testing shall either be scheduled on a member's duty time or the member will receive appropriate overtime compensation, where applicable, to participate in the testing.
- C. Testing shall not interfere with a member's previously approved vacations or requested days off.

**Testing Evaluation Phase:**

The method for determining agility and endurance will be by each member participating in a multi-phase testing event which will include:

1. A 400 meter run
2. Successfully traverse a real or simulated fence not more than four (4) feet tall;
3. Successfully push a standard issue, Portsmouth Police Department patrol vehicle, the distance of thirty (30) feet;
4. Successfully drag a simulated human body, not weighing more than 150 pounds, a distance of thirty (30) feet;
5. Complete a shuttle run by negotiating a series of four (4) cones a distance of thirty (30) feet out and thirty (30) feet back.

Classification of results will be done according to completing all five (5) phases of the event in order within the following time limits:

<u>Minimum Time Limit</u>	<u>7:00 minutes</u>
<u>Recommended Time Limit</u>	<u>6:00 minutes</u>
<u>Superior Time Limit</u>	<u>5:00 minutes</u>

**Testing and Personal Days**

Testing sessions shall occur two (2) times annually. There will be at least ninety (90) days between each testing session each year. The following chart sets forth the standards for attainment of personal days.

<u>Meets Minimum Standard:</u>	<u>Receives 8 hours of Comp. Time</u>
<u>Meets Recommended Level:</u>	<u>Receives 16 hours of Comp. Time</u>
<u>Meets Superior Level:</u>	<u>Receives 24 hours of Comp. Time</u>

**No Discipline:**

No member will be subject to discipline including reprimand, suspension, demotion, or removal for failure to meet minimum fitness standards.

**Incentives:**

The following incentives shall apply to members who attain superior fitness levels in all testing phases during a calendar year.

- A. A fitness ribbon will be awarded to a member who meets superior fitness level. The ribbon shall reflect the number of years that the member meets superior level.
- B. The member's personnel file will contain a citation for achievement for superior fitness level.

ARTICLE 36: PROMOTIONAL EXAMS.

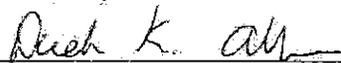
- A. The City will maintain a set of materials from which promotional examinations are made up and will provide reasonable access to those materials by the bargaining unit members. The study material will be sufficient and current enough (within one (1) Edition of current Edition) to cover the test questions.
- B. Accepting all established promotional lists, the following time in rank requirement apply for bargaining unit members to be promoted:
  - 1. A patrolman must have five years of service with the department to be eligible to be promoted to a sergeant's position.
  - 2. A sergeant must have two years of continuing service in the rank of sergeant to be promoted to a lieutenant's position.
  - 3. A lieutenant must have two years of continuing service in the rank of lieutenant to be promoted to a captain's position.
- C. The time in rank requirements may be waived in the event there are not at least two people otherwise eligible and willing to compete for a promotion.
- D. If an officer is demoted out of a disciplinary issue, he/she is not eligible to take a Promotional exam for at least two (2) years.

## ARTICLE 37: TERMINATION.

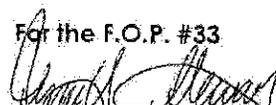
- A. This Agreement shall become effective as of January 1, 2016, and shall remain in effect up to and including December 31, 2016, and shall automatically renew itself from year to year thereafter, unless written notice to amend this Agreement is given by either party to the other at least sixty (60) days prior to the last day of the contract.
- B. In the event that any portion of this contract is found to be invalid by a court of competent jurisdiction, upon written request from either party to the other, the City and the FOP will meet at mutually agreeable times to attempt to modify the invalidated portions by good faith negotiations.
- C. The parties acknowledge that during the negotiations which resulted in this Agreement, each has the unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the City and the employees and the FOP Lodge 33 for the life of this Agreement, each voluntarily and unequivocally waives the right, and each agrees that the other shall not be obligated, to bargain collectively or individually with respect to any subject or matter referred to or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge of either or both parties at the time they negotiated or signed this Agreement. This Agreement constitutes the entire Agreement between the parties, and all other agreements either written or oral are hereby cancelled.

D. The parties agree that all MOU's signed under the previous contract will remain in effect until the expiration of this agreement. The current MOU's which will continue are the take home cruiser policy and the uniform agreement.

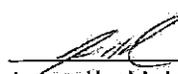
For the City of Portsmouth

  
 \_\_\_\_\_  
 Derek Allen, City Manager

For the F.O.P. #33

  
 \_\_\_\_\_  
 Timothy Stewart, F.O.P. President #33

For the Fraternal Order of Police, Ohio Labor Council Inc.

  
 \_\_\_\_\_  
 Jason Hedrick

Date:

10-26-15  
 \_\_\_\_\_

**ARTICLE 38 SPECIAL DUTY**

THE CITY AND THE F.O.P. AGREE THIS TO BE THE DEFINITION OF SPECIAL DUTY

SPECIAL DUTY: ANY DETAIL OUTSIDE A BARGAINING UNIT MEMBERS REGULAR 8 HOUR WORKDAY OR 40 HOUR WORK WEEK, IN WHICH THE CITY OF PORTSMOUTH AND AN OUTSIDE ENTITY HAS ENTERED INTO A CONTRACTUAL AGREEMENT, WHETHER VERBAL OR WRITTEN, TO PROVIDE A POLICE RELATED SERVICE FOR THAT OUTSIDE ENTITY.

THE CITY AND THE FOP AGREE THAT THE CITY OF PORTSMOUTH CANNOT AND WILL NOT CHARGE ANY OF THESE OUTSIDE ENTITIES MORE THAN 33% ABOVE THAT TIME AND ONE HALF RATE OF THE PAY RATE SCALE OF THE RANK OF SERGEANT, ROUNDED UP TO THE NEXT DOLLAR.

THE CITY AND THE FOP AGREE THAT ALL BARGAINING UNIT MEMBERS WORKING SPECIAL DUTY ARE SOLELY EMPLOYED BY THE CITY, IN ALL ASPECTS, THE CITY AND THE FOP AGREE THAT THE CITY WILL SUBMIT THE APPROPRIATE PAYMENT INTO EACH BARGAINING UNIT MEMBERS PENSION-PER THE REQUIREMENT AND AS STATED IN APPENDIX A OF THIS AGREEMENT, WORKERS COMPENSATION, AND MEDICARE BENEFITS ON BEHALF OF EACH BARGAINING UNIT MEMBER WORKING ANY SPECIAL DETAIL.

ALL SPECIAL DUTY DETAILS WILL BE ALLOTTED OUT TO ALL AND ONLY BARGAINING UNIT MEMBERS, THE LAST WEEK OF THE PRECEDING MONTH THE DETAIL IS TO BE WORKED. ALL SPECIAL DUTY DETAILS WILL BE ALLOTTED OUT TO ALL BARGAINING UNIT MEMBERS ON A FAIR BASIS, BY USE OF A ROTATING LIST OF ALL BARGAINING UNIT MEMBERS. THE CITY AND THE FOP AGREE THAT THERE WILL BE NO SECRET SPECIAL DUTY DETAILS OR INDIVIDUAL ONLY WORK REQUESTS.

THE CITY AND THE FOP AGREE THAT ALL BARGAINING UNIT MEMBERS WORKING ANY SPECIAL DUTY DETAIL WILL BE COMPENSATED BY THE CITY, WITHOUT EXCEPTION, ON THE NEXT PAY PERIOD. ANY DETAIL WORKED AFTER THE PAYROLL CUTOFF WILL BE PAID ON THE NEXT PAY PERIOD.

ALL BARGAINING UNIT MEMBERS WORKING SPECIAL DUTY WILL HAVE THE OPTION OF BEING PAID TIME AND ONE-HALF THEIR INDIVIDUAL PAY RATE OR THE CHOICE OF COMPENSATORY TIME.

**Article 39****Residency**

Employees shall be required to reside within Scioto County or any adjoining county in Ohio or Kentucky.

## APPENDIX A: PAY SCALE.

Effective January 1, 2012, bargaining unit members shall be paid in accordance with the following schedule.

<u>PAY RANGE</u>	<u>DESCRIPTION</u>	<u>HOURLY RATE</u>
Police Recruit	Police Civil Service Test passed; schooling is successfully completed, the Recruit moves to Pay Range 1 and begins progression through the Pay Ranges listed below. The date of appointment as a Probationary Patrolman will serve as the date of service.	\$13.75
Pay Range 1.	Probationary Patrolman - completion of school to one year of service.	\$16.68
Pay Range 2.	Rookie Patrolman - completion of probationary year to two year of service.	\$17.52
Pay Range 3.	Patrolman - from two years of service until three years of service.	\$18.38
Pay Range 4.	Top Step Patrolman A - from three years of service until four years of service.	\$19.26
Pay Range 5.	Top Step Patrolman - after completion of one year in Pay Range.	\$20.04
Pay Range 6.	Sergeant.	\$21.81
Pay Range 7.	Lieutenant.	\$23.53
Pay Range 8.	Captain.	\$25.15

- B. The City agrees to continue the present ten percent (10%) pension pick-up on behalf of each bargaining unit member.

## APPENDIX A: PAY SCALE.

Effective January 1, 2013, bargaining unit members shall be paid in accordance with the following schedule.

<u>PAY RANGE</u>	<u>DESCRIPTION</u>	<u>HOURLY RATE</u>
Police Recruit	Police Civil Service Test passed; schooling is successfully completed, the Recruit moves to Pay Range 1 and begins progression through the Pay Ranges listed below. The date of appointment as a Probationary Patrolman will serve as the date of service.	<u>\$13.75</u>
Pay Range 1.	Probationary Patrolman - completion of school to one year of service.	<u>\$16.68</u>
Pay Range 2.	Rookie Patrolman - completion of probationary year to two year of service.	<u>\$17.52</u>
Pay Range 3.	Patrolman - from two years of service until three years of service.	<u>\$18.38</u>
Pay Range 4.	Top Step Patrolman A - from three years of service until four years of service.	<u>\$19.26</u>
Pay Range 5.	Top Step Patrolman - after completion of one year in Pay Range.	<u>\$20.04</u>
Pay Range 6.	Sergeant.	<u>\$21.81</u>
Pay Range 7.	Lieutenant.	<u>\$23.53</u>
Pay Range 8.	Captain.	<u>\$25.15</u>

- B. The City agrees to continue the present ten percent (10%) pension pick-up on behalf of each bargaining unit member.

**APPENDIX A: PAY SCALE.**

- A. Effective January 1, 2012, bargaining unit members shall be paid in accordance with the following schedule.
- a. 2012: Salaries within Appendix A will remain the same as contract year 2011;
  - b. 2013: Salaries within Appendix A will remain the same as contract year 2011;
  - c. 2014: Either party may reopen this Article for the purpose of negotiating and establishing salaries and employee pension contributions for contract year 2014 by serving a notice to negotiate upon the other party in accordance with Chapter 4117 of the Ohio Revised Code. The notice must be served at least 60 days prior to December 31, 2013 for a 2014 contract year re-opener. Negotiations for the re-opener will be subject to and conducted in accordance with Chapter 4117 of the Ohio Revised Code.
- B. The City agrees to contribute ten percent (10%) pension pick-up on behalf of each bargaining unit member.

## APPENDIX B: ATTENDANCE POLICY

### EXPECTATIONS

MEMBERS ARE EXPECTED TO ATTEND WORK AND TO BE WORKING IN A REGULAR AND PREDICTABLE MANNER. FAILING TO DO SO IS LEGITIMATE GROUNDS FOR ACTION IN ACCORDANCE WITH THIS POLICY, WITH OR WITHOUT FAULT. ABSENTEEISM CREATES NUMEROUS PROBLEMS- ESPECIALLY UNSCHEDULED ABSENCES. PROBLEMS INCLUDE PAY FOR ABSENT WORKERS, COST ASSOCIATED WITH REPLACEMENTS, AND PROBLEMS FOR THOSE WHO MUST COMPENSATE FOR THE ABSENT MEMBER. THE QUALITY TO THE COMMUNITY SUFFERS AS WELL.

### PURPOSE

THIS POLICY DOES NOT HAVE AS ITS PURPOSE THE ELIMINATION OF ALL FORMS OF ABSENTEEISM. A CERTAIN AMOUNT OF SICKNESS, INJURIES AND ABSENCES FOR PERSONAL NEEDS IS TO BE EXPECTED. RATHER, THE PURPOSE HERE IS TO PREVENT AND ESTABLISH ACCOUNTABILITY FOR THOSE MEMBERS WHO ARE REPEATEDLY AND EXCESSIVELY ABSENT OR TARDY OR ABUSIVELY OR FRAUDULENTLY USING LEAVE PRIVILEGES. REGULAR AND PREDICTABLE ATTENDANCE IS CONSIDERED TO BE THE FIRST ESSENTIAL FUNCTIONS OF EVERY MEMBERS' JOB WORKING FOR THE CITY OF PORTSMOUTH. MEMBERS WHO CANNOT OR WILL NOT FULFILL THEIR RESPONSIBILITIES, REGARDLESS OF FAULT, CREATE CAUSE FOR MANAGEMENT TO TAKE ACTION IN ACCORDANCE WITH THIS POLICY.

SHOULD A MEMBER HAVE ATTENDANCE, TARDINESS OR ABSENTEEISM PROBLEMS, MANAGEMENT WILL MAKE A CASE BY CASE ANALYSIS TO DETERMINE APPROPRIATE CORRECTIVE ACTION. FACTORS TAKEN INTO CONSIDERATION WILL INCLUDE, BUT ARE NOT LIMITED TO:

- THE NATURE AND REASONS FOR THE ABSENTEEISM PROBLEM
- THE MEMBERS' WORK, PRODUCTIVITY, AND OTHER EMPLOYMENT HISTORY
- WHETHER A PREDICTABLE PATTERN OF ABSENTEEISM EXISTS IN THE MEMBERS' WORK RECORDS
- THE STAFFING NEEDS OF THE CITY OF PORTSMOUTH
- THE ECONOMIC COST TO THE CITY OF PORTSMOUTH
- THE MEMBERS' DEMONSTRATED ABILITY AND WILLINGNESS TO IMPROVE AND CORRECT THE PROBLEM
- WHETHER SUPERVISORS HAVE MONITORED THE PROBLEM AND COUNSELED MEMBERS OF THE PROBLEM AND APPLIED SANCTIONS FAIRLY AND CONSISTENTLY. BARGAINING UNIT MEMBERS ARE NOT SUPERVISORS FOR PURPOSE OF THIS POLICY. SUPERVISORS WILL RECORD MONITORING TO PROVIDE DOCUMENTATION TO SHOW THAT THE PROBLEM HAS BEEN ADDRESSED AND THE CITY IS TRYING TO CREATE A POSITIVE REINFORCEMENT OF ESTABLISHED PROCEDURES.
- THE LENGTH OF TIME DURING WHICH THE MEMBER HAD A POOR ATTENDANCE
- WHETHER THE MEMBER FAILED TO GIVE PROPER NOTICE OF ABSENCE IF REQUIRED TO DO SO IN ACCORDANCE WITH THIS POLICY OR RULE OR SOME GENERALLY ACCEPTED ATTENDANCE STANDARD
- 
- SPECIFIC REASONS FOR THE MEMBERS ABSENCES AND WHETHER ABSENCES WERE INTERMITTENT OR EXTENDED
- THE NATURE OF THE MEMBERS' JOB
- ATTENDANCE RECORDS OF OTHER MEMBERS SIMILARLY SITUATED
- WHETHER THE DISCIPLINE METED OUT WAS CONSISTENT WITH OTHER DISCIPLINE GIVEN OTHER

MEMBERS IN SIMILAR SITUATIONS AND WORK RECORDS.

#### TYPES OF ATTENDANCE AND ABSENTEEISM PROBLEMS

BASED ON SUBSTANTIAL EVIDENCE OF MISUSE OR ABUSE, THE CITY OF PORTSMOUTH MAINTAINS THE RIGHT TO INVESTIGATE ANY MEMBERS' ABSENCE.

#### SUBSTANTIAL EVIDENCE DEFINED

SUBSTANTIAL EVIDENCE INCLUDES ALL EVIDENCE REGARDLESS OF ITS SOURCE THAT WOULD LEAD A REASONABLE PERSON TO BELIEVE THAT IT IS TRUE. SUBSTANTIAL EVIDENCE INCLUDES EVIDENCE THAT IS LOGICALLY PERSUASIVE TO THE REASONABLE MIND. THIS POLICY ADDRESSES THREE SPECIFIC TYPES OF ABSENTEEISM PROBLEMS- EXCESSIVE, ABUSIVE AND FRAUDULENT.

##### ABUSIVE

ABUSIVE ABSENTEEISM IS TAKING LEAVE IN A MANNER FOR WHICH IT WAS NOT INTENDED. FOR EXAMPLE, USING SICK LEAVE IN DIRECT PROPORTION TO THE AMOUNT OF TIME EARNED, OR USING IT AS SOON AS IT IS EARNED, OR USING IT IN A PREDICTABLE PATTERN IS SUBSTANTIAL EVIDENCE OF ABUSIVE USE. MEMBER FAULT MAY OR MAY NOT BE A NECESSARY ELEMENT OF CAUSE IN PROVING THIS OFFENSE.

##### FRAUDULENT USE

MISREPRESENTING THE NEED FOR LEAVE OR CLAIMING ILLNESS OR INJURY UNDER FALSE PRETENCES IS FRAUD. FRAUDULENT USE OF LEAVE PRIVILEGES IS THEFT OF TIME AND SERVICES. MEMBER FAULT IS A NECESSARY ELEMENT OF PROOF FOR CAUSE TO BE ESTABLISHED. FRAUD IN ANY FORM IS A DISCIPLINARY OFFENSE AND ALSO CARRIES THE POSSIBILITY OF BEING CHARGED WITH A VIOLATION OF A CRIMINAL LAW.

#### CLASSIFYING AND RECORDING ABSENTEEISM

ALL FORMS OF ABSENTEEISM WILL BE CLASSIFIED AS EITHER SCHEDULED OR NONSCHEDULED. SCHEDULED ABSENTEEISM IS ABSENTEEISM THAT IS PREARRANGED WITH MANAGEMENT. NONSCHEDULED ABSENTEEISM IS ABSENTEEISM THAT DOES NOT FIT IN THE DEFINITION OF SCHEDULED ABSENTEEISM. THE TABLE BELOW PROVIDES A NONEXCLUSIVE LISTING OF TYPES OF SCHEDULED AND NONSCHEDULED ABSENTEEISM THAT WILL BE TRACKED ON A REGULAR BASIS.

#### EXAMPLES FOR SCHEDULED AND NONSCHEDULED ABSENTEEISM

##### SCHEDULED:

ARRANGED USE OF SICK LEAVE

##### NONSCHEDULED:

CALLING OFF SICK ACCORDING TO AGREEMENT  
LEAVING WORK EARLY WITHOUT PERMISSION

#### NOTIFICATION REQUIREMENTS

MEMBERS ARE REQUIRED TO NOTIFY THEIR SUPERVISOR OR DESIGNATED PERSON, IF THEY ARE GOING TO BE TARDY OR CANNOT REPORT FOR WORK AT THE DESIGNATED TIME OR PLACE. THEY ARE EXPECTED TO EXPLAIN OR VERIFY ALL ABSENCES. FURTHERMORE,

MEMBERS MUST REPORT UNSCHEDULED ABSENCES PERSONALLY TO THEIR SUPERVISORS WITH AS MUCH ADVANCE NOTICE (USUALLY A MINIMUM OF 45 MINUTES OR THE DEPARTMENTS' POLICY PRIOR TO START TIME) AS POSSIBLE. MEMBERS MAY NOT RELY ON ANOTHER PERSON TO MAKE THIS REPORT. AN EXCEPTION WOULD BE WHERE AN EMERGENCY HAD OCCURRED AND THE MEMBER

CANNOT PERSONALLY REPORT THE ABSENCE. IN SUCH CASES, THE MEMBER IS EXPECTED TO MAKE A GOOD FAITH EFFORT, TAKING ADVANTAGE OF ALL OPPORTUNITIES TO REPORT AS SOON AS POSSIBLE.

MEMBERS ARE EXPECTED TO SCHEDULE ELECTIVE ABSENTEEISM (SICK LEAVE OR FMLA) AS FAR IN ADVANCE AS POSSIBLE IN ORDER THAT SCHEDULING AND WORK PRIORITIES MIGHT BE ADJUSTED ACCORDINGLY. FAILURE TO DO SO MAY RESULT IN DENIAL OF LEAVE OR PAY FOR THE PERIOD.

#### VOLUNTARY RESIGNATIONS

ABSENCE WITHOUT NOTICE AND WITHOUT SUFFICIENT REASON FOR PROVIDING A NOTICE FOR THREE CONSECUTIVE WORK SHIFTS IS CONSIDERED TO BE A VOLUNTARY RESIGNATION.

#### INCENTIVES

MEMBERS SHALL BE ENTITLED TO THOSE INCENTIVES CONTAINED WITHIN THE COLLECTIVE BARGAINING AGREEMENT REGARDING THE USE OF SICK LEAVE IF THEY MEET THE ELIGIBILITY REQUIREMENTS.

#### SICK LEAVE

SICK LEAVE IS AN EARNED AND CONDITIONAL BENEFIT FOR THE PURPOSE OF PROVIDING FINANCIAL RESOURCES TO MEMBERS WHO BECOME UNABLE TO WORK DUE TO PERSONAL OR FAMILY RELATED ILLNESSES. MEMBERS WHO ABUSE THESE PRIVILEGES (FOR EXAMPLE, BY BURNING AS IS EARNED OR USING IT IN SMALL INCREMENTS IN A PREDICTABLE ATTACHED PATTERN) ARE SUBJECT TO CORRECTIVE AND DISCIPLINARY ACTION.

#### WHEN SICK LEAVE MAY BE USED

SICK LEAVE MAY BE USED IN ACCORDANCE WITH ARTICLE 15 AND STATE OF OHIO OR CITY OF PORTSMOUTH ORDINANCES.