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**AGREEMENT BETWEEN**

**THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES**

**LOCAL UNION 1039**

**AND**

**THE CITY OF PORTSMOUTH, OHIO**

***MAY 1, 2012 THROUGH APRIL 30, 2015***

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## PREAMBLE

This Agreement is entered into by and between the City of Portsmouth, Ohio, hereinafter referred to as the "City" and Local 1039 and Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, hereinafter referred to as the "Union."

### ARTICLE 1 INTENT AND PURPOSE

It is the intent and purpose of the parties entering this collective bargaining relationship between the City and Union to set forth herein an agreement establishing the wages, hours, and other terms and conditions of employment and to establish the prompt disposition of grievances.

### ARTICLE 2 RECOGNITION

Section 1: The City recognizes the Union as the sole and exclusive representative and bargaining agent of all its employees in the bargaining unit as set forth in Appendix B of this Agreement for purposes of collective bargaining with respect to wages, hours and other terms and conditions of employment.

SECTION 2: Appropriate positions to be included in the bargaining unit shall be listed as a part of Appendix B of this Agreement.

SECTION 3: Whenever the male pronoun or adjective is used in this Agreement, it shall be deemed also to include the female, unless otherwise indicated.

SECTION 4: The City will abide by applicable Federal and State statutes and rules when working individuals in the various state and federal programs.

### ARTICLE 3 MANAGEMENT RIGHTS

Section 1: The City retains all rights not specifically modified by the terms and conditions of this Agreement including, but not limited to, the right to:

Direct, supervisor, hire, promote, suspend, discipline, discharge, transfer, assign, schedule and retain employees, relieve employees from duties and to determine the number of personnel needed in any agency or department, or to perform any function, determine services to be rendered, operations to be performed, utilization of technology, and overall budgetary matters to purchase equipment, materials or services; determine the appropriate job classifications and personnel by which government operations are to be conducted; determine the overall mission of the union of government, maintain and improve the efficiency and effectiveness of the government operations, make reasonable rules to regulate the work force; take any necessary actions to carry out the mission of the agency in situations of emergency and take whatever other actions may be necessary to carry out the wishes of the public not otherwise specified above or by collective agreement.

### ARTICLE 4 NONDISCRIMINATION

Section 1: The City and the Union agree there shall be no discrimination against any employee relating to employment on the basis of race, color, creed, national origin, age, sex, veterans status, disability or handicap.

Section 2: There shall be no discrimination, interference, restraint, coercion or reprisals against any employee because of union membership, or non-membership, or participation or nonparticipation in any lawful activity on behalf of the Union.

ARTICLE 5 DUES DEDUCTION

- Section 1: The City agrees to deduct Union dues in accordance with this Article for all employees eligible for the bargaining unit upon successful completion of their initial probationary periods and upon receipt from the employee or the Union of an authorization card signed by the employee for that purpose.
- Section 2: The City will deduct twice monthly (unless the City goes to bi-weekly pays, then 26 deductions annually) Union dues, initiation fees or assessments for any regular full-time or permanent part-time employee in the bargaining unit in the amount established by the union upon receipt of an individual written authorization card executed by the employee for that purpose and bearing his signature.
- Section 3: The City shall be relieved from making such individual check-off deduction upon:
- A. Termination of employment;
  - B. Transfer or promotion to a job other than one covered by the bargaining unit;
  - C. Layoff from work;
  - D. An agreed leave of absence; or
  - E. Revocation of the check-off authorization in accordance with its terms and with applicable law.
- Section 4: Each eligible employee's written authorization for dues deduction shall be honored by the City for the duration of this Agreement, unless the eligible employee certifies in writing by certified mail to the City and AFSCME that the dues check-off authorization has been revoked in accordance with this Article at which point the dues deductions will cease, effective the pay period following the pay period in which the written dues deduction revocation was received by the City.
- Section 5: Total AFSCME dues, initiation fees, assessments and fair share fee deductions are payable to the AFSCME Ohio Council 8 Controller, 6800 North High Street, Worthington, Ohio 43085-2512. Such deductions and an alphabetical list of names of all employees whose dues and/or fees or assessments have been deducted shall be transmitted to the Union no later than the tenth (10<sup>th</sup>) day following the end of the pay period in which each deduction is made.
- Section 6: It is specifically agreed by the City and the Union that the City assumes no obligation, financial or otherwise, arising out of the provisions of this Article after the deductions have been remitted and AFSCME agrees that it will indemnify and hold the City harmless from any claims, actions or proceedings by anyone arising for the deductions made by the City pursuant to the provisions of the contract. Once AFSCME dues are remitted to the union, their deposition shall be the sole and exclusive obligation and responsibility of the Union.
- Section 7: The City shall not be obligated to make dues deductions from any employee who, during any dues months involved, shall have failed to receive sufficient wages to make all legally required deductions in addition to the deduction of dues.

- Section 8: It is specifically agreed that neither the employee nor the Union shall have claims against the City for errors in the processing of deductions, unless a claim of error is made to the City in writing within one hundred twenty (120) days after the date such an error was made. It will be corrected at the next pay period that Union dues would normally be deducted by deducting the proper amount.
- Section 9: All non-probationary employees covered by this Agreement who are members of the union on the effective date of this Agreement shall be required to pay Union dues. Employees are not required to join AFSCME as a condition of employment; however, upon completion of their probationary period all employees who are not members of the union shall be required to pay a fair share fee to the union as a condition of continued employment.
- Section 10: Fair share fees shall be deducted and remitted during the same period as dues, as provided by this Article, provided the employee has received sufficient wages during the applicable pay period to equal the deduction. The deduction of the fair share fee is automatic and does not require authorization by the employee, as outlined in Chapter 4117 of the Ohio Revised Code. This arrangement does not require any employee to become a member of the Union, nor shall the fair share fees exceed dues paid by members of the Union who are in the bargaining unit. Any changes in the fair share fee shall be certified by mail to the City.
- Section 11: The Union represents to the Employer that it has promulgated and shall maintain in force throughout the term of this Agreement a fair share fee reduction and challenge procedure for fair share fees of employees who are not members of the Union and which conform to the provisions of Section 4117.09C of the Ohio Revised Code, Federal law and applicable State and Federal Court decisions.
- Section 12: The Union agrees to hold the City harmless against any and all claims which may arise in the City's implementation of the fair share fee provisions of this Article, and to comply with all the tenets of law.

## ARTICLE 6 UNION REPRESENTATION

- Section 1: Non-employee representatives of the Union shall have reasonable access to the premises of the City for purposes of conducting Union business.
- Section 2: The City shall recognize the local Union representatives as stewards or officers, who shall be permitted to conduct union business during work times without loss of pay, provided such union officials report the beginning and completion of Union business to their immediate supervisor. The Union agrees that such business shall be held to a minimum so as not to interfere with the normal operation of City services. The Union shall provide to the City a current list of Union officers including stewards. This list is to be updated and resubmitted anytime there is a change in Union positions.

Section 3: The City shall recognize a local Union negotiating committee selected by the Union for purposes of contract negotiations. No more than six (6) employee negotiating committee members will be released from duty for participation in the negotiations process.

The Union may also select alternates, who will be released from duty to participate in negotiations whenever a regular committee member is unable to attend negotiations. Negotiation committee members shall be paid their regular straight time rate of pay for all hours spent in the negotiations process during their regular and normal hours of work. Negotiations shall be conducted during normal business hours whenever possible.

Section 4: Grievants and Union representatives necessary to the proper processing of grievances shall be permitted to process grievances and attend grievance hearings without loss of pay.

Section 5: Employees will sign in or out before conducting Union business. The parties agree to use the regulation form for Union Stewards and Union Officers to sign out and sign in on for the purpose of grievance handling.

The Steward or Officer will give the reason of time used, i.e., grievance hearing, employee question or investigation/filing of grievances, however, will not have to relinquish pertinent information on said form. Union Officers and Stewards will log in long-distance calls concerning Union business.

Union Officers conducting business other than grievance processing shall give just a brief statement as to their whereabouts and business conducted, i.e., labor/management conferences, copying, meeting with staff representatives, negotiations, etc.

Management will provide the Union a list of new employees hired within 30 days of their starting date.

Section 6: Employees who are officers or stewards of the local union who are on a leave of absence or in non-pay status and must act on official union matters pursuant to the office they hold and/or the contract, that such officer or steward shall be allowed access to the employer's premises in designated non-work areas to conduct the proper business upon prior notification and approval of the department head or his designee.

ARTICLE 7 PROBATIONARY PERIOD

Section 1: The probationary period for all newly hired employees shall be one hundred twenty (120) working days. When hired, the employee will be paid seventy-five percent (75%) of the rate for the job for which he was hired. For those individuals employed after May 1, 1997, their rates of pay will then progress in accordance with Section 5 of this Article and also Appendix A of this Agreement. They will be eligible for all other benefits of this Agreement after completion of the probationary period or as determined by the specific article.

Section 2: During the probationary period, the employee shall have no seniority rights under this Agreement. After completion of the probationary period, however, employees shall be credited with seniority from the first day of hire.

Section 3: Employees promoted shall serve a ninety (90) calendar day probationary period.

Section 4: During or at the end of the probationary period, the City shall have the right to terminate the new employee and such termination shall not be subject to appeal through the Grievance Procedure of this Agreement.

Section 5: Employees hired shall be paid in accordance with the following chart:

<u>Entry</u>	<u>Completion of 6 Months</u>	<u>Completion of 1 Year</u>	<u>Completion of 18 Months</u>
75%	Step One (1)	Step Two (2)	Step Three (3)

The rates in Section 5, Article 7 apply even if an employee is promoted, transfers, or bids to another job and/or department.

Section 6: Types of Probationary Periods

1. 120 Working Days-New Hires
2. 90 Calendar Days- Promotion and/or any successful bid or bump

Section 7: Time worked as a seasonal, intermittent, or emergency (pump operators for high water) employee shall not count as workdays in completing the probationary period. The city will only work seasonal, intermittent or emergency (pump operators for high water) employees in the event of a natural disaster, act of God, an emergency declared by the Governor of the State of Ohio, or the President of the United States, or by written agreement with the Local Union 1039.

## ARTICLE 8 ESTABLISHMENT OF NEW POSITIONS

If a new job is established within the bargaining unit, or if there is a substantial change in the duties in a position within the bargaining unit, the City and the Union will immediately enter into discussions to determine the proper wage rate for the job. If the parties disagree, the City will institute the rate and/or duties and the Union may grieve the action.

## ARTICLE 9 PRODUCTIVITY

Section 1: The delivery of essential municipal services in the most effective manner is of paramount importance and interest to both the City and the Union. Maximized service to the community is recognized to be a mutual desire of both parties within their roles and responsibilities. Work procedures, schedules and assignments for improving services may be established and/or revised from time to time in accordance with the management rights provision of this Agreement, so long as no right guaranteed under this Agreement is violated. The parties agree to meet at mutually convenient times to discuss means of increasing productivity.

Section 2: The Employer and the Union agree to meet monthly at a mutually agreeable time for a Labor/Management Conference to discuss mutual interests. There shall be three (3) representatives of the Union and three (3) representatives of the Employer to make up the Labor/Management Committee. Both parties shall submit an agenda of topics each would like to discuss at the meeting at least seventy-two (72) hours in advance.

There shall be a written response to the agenda items within five (5) work days from the meeting.

The Labor/management Meeting may be waived for any month when neither side has an agenda to be discussed.

## ARTICLE 10 GRIEVANCE PROCEDURE

A grievance is defined as an allegation that the terms of this Agreement have been violated.

Step 1: An employee who has a grievance shall reduce it to writing, setting forth the details of the grievance (i.e., the facts upon which it is based, the approximate time of their occurrence, the relief or remedy requested), and submit it to his Department Head ( or his excluded Management supervisor), accompanied by a union representative, within ten (10) calendar days after the event which is the cause of the grievance or within ten (10) calendar days after the grievant has knowledge, or with reasonable diligence should have had knowledge, of the event which is the cause of the grievance. The grievant and the Union representative shall meet when the grievance is filed and all parties shall disclose all facts available to them.

The Department Head (or his excluded Management supervisor) shall meet with the aggrieved parties and the Union representative and shall give his answer in writing to the employee and to the Union representative within ten (10) calendar days after the grievance was presented to him.

Step 2: If the employee's grievance is not satisfactorily settled in Step 1, the aggrieved party or his representative may within seven (7) calendar days after receipt of the Step 1 answer, appeal in writing to the Mayor or his designated representative.

The Mayor or his designated representative shall meet with the Union representative and the grievant within ten (10) calendar days of receipt of the grievance. The time for a written response shall be ten (10) calendar days after the meeting.

If the response of the Mayor is unsatisfactory, the Union may appeal the grievance within ten (10) calendar days to Step 3-Mediation or within thirty (30) calendar days to Step 4-Arbitration as stipulated in Step 4.

Step 3: Mediation

1. The selection procedure of the Mediator shall be in accordance with the procedure outlined in Step 4 of this Agreement, or from assignment of a Federation Mediation and Conciliation Service (FMCS) Mediator.
2. The conduct of the Step Three Mediation hearing shall be in accordance with Step 4: Arbitration and the list below.
3. The Mediator shall make his decision in conformity with this Agreement and shall not modify or change this Agreement and shall render a decision in writing or in accordance with FMCS rules within three (3) working days from the close of the hearing. The acceptance or rejection of the Mediator's decision is voluntary for both parties.

Accordingly, under step three of the grievance procedure, the parties shall use the mediation approach and procedure for resolving grievances of a non-precedent nature or a suspension of four (4) days or less.

- A. When either party chooses the Step 3 alternative, the parties and the designated mediator (arbitrator), will select a mutually agreeable date for

holding the mediation. If a mutually agreeable date cannot be selected, the Mediator will select the date and both parties will abide by this selection. This same procedure shall apply to selecting a time and location for holding the mediation.

- B. The Mediation hearing will be conducted in accordance with the following:
  - 1. The hearing shall be informal. No hearing shall last longer than eight (8) hours in a twenty-four (24) hour period.
  - 2. No briefs shall be filed or transcripts made. The mediator will set break and meal periods and time limits.
  - 3. There shall be no formal rules of evidence.
  - 4. Each party's case must be presented by a representative of their own choice.
  - 5. The Mediator (arbitrator) shall attempt to mediate the grievance after the facts presented by both parties.
  - 6. If the parties cannot agree on any resolution, the mediator (arbitrator) will file his recommendations with the parties as to the grievance in question.
    - a. The Mediator has three (3) days (seventy-two hours) to file his decision after the conclusion of the hearing (excluding Saturdays, Sundays or holidays).
    - b. The Mediator's recommendations shall be based on facts developed by the parties that were submitted at the hearing.
    - c. The Mediator's recommendations should not exceed two (2) typed pages.
    - d. The authority of the Mediator shall be the same as outlined in the grievance procedure for an arbitrator.
    - e. The Mediator shall file the recommendations with both parties.
- C. Any recommendations of the Mediator in this procedure shall not be used as a precedent in any other grievance or hearing, except the grievance for which the Mediator has issued his recommendations.
- D. The parties may agree to present more than one grievance to the Mediator for his recommendations. Each party will submit to the Mediator a copy of the grievance and any information that has been submitted as part of the grievance record prior to the hearing. The Mediator will be provided a copy of the collective bargaining agreement.
- E. The parties will split the cost of the Mediator and hearing room. All other costs will be borne by the party incurring the costs.

Step 4: If the grievance is not satisfactorily resolved as provided in Step 2 or 3, the Union may appeal the grievance to arbitration. The demand for arbitration shall be submitted in writing within thirty (30) calendar days after receipt of the Step 2 written response, and the Union and the City will jointly request a panel of arbitrators from the Federal Mediation and Conciliation Service (FMCS) to be submitted to both parties. The cost of the FMCS list shall be split equally by the parties. The parties shall strike names within

ten (10) calendar days of receipt of FMCS list. The alternate strike method shall be used to select an arbitrator. The party striking first shall be alternated on each successive list. The party striking second shall notify FMCS of the selection and copy the other party. If a party cancels the arbitration, it shall be responsible for any cancellation costs.

The arbitrator shall have no power to add to or subtract from or in any way modify any provisions of this Agreement.

The decision of the arbitrator shall be rendered within thirty (30) calendar days after the close of the hearing and the decision shall be final and binding upon the grievant, the Union and the City.

The fees and expenses of the arbitrator shall be borne equally by the parties. Each party shall bear the cost of its own representative presenting the case.

Either party may have a transcribed record made of the arbitration proceedings at its own expense providing it makes copies available without charge to the other party and the arbitrator.

- Section 2: The time limits set forth in the grievance procedure shall, unless extended by the City and Union, be followed. If in the event the City does not provide timely answers a progression will occur whereby the next following Step will automatically occur if the Step prior has not been fulfilled by the City. Ultimately, if the City does not respond, arbitration is automatic, if the grievance is otherwise timely. If the grievant or the Union fails to timely appeal a grievance, the grievance stands resolved on the basis of the management answer in the prior step. A grievance may be withdrawn at any time without creating a precedent.
- Section 3: The Union may file on behalf of its members through one of the officers a class action grievance at Step 1 which may affect a group of employees or other conditions as set forth under this contract.
- Section 4: With the exception of serious safety violation grievances and grievances filed under Article 11 Section 6, all grievances will be filed at Step 1.

#### ARTICLE 11 DISCIPLINE

- Section 1: In all cases of disciplinary action, the employee shall be entitled to a hearing conducted by the Department Head or excluded Management supervisor recommending the disciplinary action. At this hearing the employee may be represented by the Union President or Union Steward, and/or an Ohio Council 8 Union Representative.
- Section 2: The City shall have the right to discipline or discharge an employee for just cause.
- Section 3: All actions of record including oral reprimands, written reprimands, suspensions, or dismissal will be maintained in each bargaining unit member's personnel file. Any records of written reprimands will be removed from the official file upon the request of

the member eighteen (18) months after such was given if no further corrective action has occurred; any documentation of oral reprimands will be removed from the official file upon request of the member one (1) year after such was given if no further corrective action has occurred. 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, it shall be removed by the City. In addition, unsubstantiated or unproven allegations or complaints of misconduct made against a member shall not appear in the official files of the City and shall not be considered in future corrective action or promotional consideration. An employee shall have the right to receive one copy of anything placed in his official file. After the first copy the employee may request additional copies at the cost of twenty-five cents (\$.25) per page.

- Section 4: Written departmental reprimands may be issued by the department head without the necessity of a hearing, however, such reprimands shall be subject to the grievance procedure.
- Section 5: Any unauthorized absence from work or the assigned work location shall be considered grounds for disciplinary action. In addition, any unauthorized absence from work for a period of three (3) or more days shall be deemed a resignation.
- Section 6: Disciplinary grievances involving suspensions will be filed directly at Step 2 of the grievance procedure, in writing, within ten (10) working days after the disciplinary action is issued.
- Section 7: Probationary removals of newly hired employees are not appealable through the grievance procedure nor does the City have to state any reason for removal. The City will notify the Union of any removals involving bargaining unit positions.
- Section 8: Any employee who has been disciplined by suspension or discharge will be given a written statement describing the reasons for which he has been suspended or discharged. In the case of suspension, he will be advised of the duration of the suspension. The affected employee shall be informed of his right to Union representation.
- Section 9: Suspensions will be removed from an employee's personnel file three (3) years following the date of suspension providing there is no intervening written notice of disciplinary action during the three (3) year period.
- Section 10: In imposing discipline on a current charge, the City shall not take into account any written reprimands or suspensions which should have been removed by the procedure of 3 and 4 herein, or any other discipline which occurred more than three (3) years previously.
- Section 11: An employee shall be given a copy of any written warning, reprimand, or other disciplinary action entered on his personnel record. A Union representative may be present at the bargaining unit member's request when discipline is given. The Local Union President shall receive a copy of any suspension or discharge notice.

Section 12: Bargaining unit members shall be subject to discipline for using E-Mail to send personal messages or to transact personal business. Any unauthorized charges incurred by a bargaining unit member using the internet or any other similar communication vehicles, long distance charges or carriers will result in discipline, as well as require repayment of costs incurred in the unauthorized use.

#### ARTICLE 12 NO STRIKE/NO LOCKOUT

The Union agrees that during the term of this Agreement there shall be no strikes, work stoppage, picketing, job actions, slow-downs or other cessation of the full and faithful performance of duties for any purpose whatsoever. In the event of any such concerted activity, Union officers and representatives will continue to carry out their duties as employees and will take positive action to bring the activity to an end.

The City agrees that it will not lockout any employee during the term of this Agreement.

For the purpose of this Agreement, the meaning of the term "job action" shall include but not be limited to any interruption of operations by employees, absence from work upon any pretext or excuse, such as illness, which is not founded in fact; or interruption of the operations of the City by the Union and/or its members. The parties to this Agreement shall do nothing to provoke a job action.

#### ARTICLE 13 SENIORITY

Section 1: Seniority shall be defined as the length of continuous permanent service from the employee's most recent date of hire into the bargaining unit, or most recent date of entry into the department. However, when an employee is laid off and subsequently recalled his seniority shall be determined from his most recent date of hire.

Seniority shall not be available to employees during their probationary period, but shall be retroactive to the date of hire upon successful completion of the probationary period.

Permanent part-time employees shall accrue seniority based on a pro-rated basis. Unit of measurement shall be days with eight (8) hours being one (1) day and with two hundred sixty (260) days being one year.

- A. As of May 1, 1994, bargaining unit seniority shall be defined as the bargaining unit member's uninterrupted total City Service.
- B. After May 1, 1994, all newly hired employees in the bargaining unit shall have only their time in the bargaining unit jobs or positions calculated for their seniority.

Section 2: Seniority shall be lost when an employee:

- A. Resigns;
- B. Is discharged for just cause;

- C. Is laid off and not recalled for the length of his seniority from the effective date of the layoff;
- D. If off the payroll for any reason (except layoff, approved leaves of absence, military service or job-related illness or injury) for one (1) calendar year.

Section 3: Three types of seniority are established under this Agreement, as follows:

- A. Bargaining Unit Seniority, which is defined as the length of time that an employee has been continuously employed by the City from the most recent date of employment .
- B. Departmental Seniority, which is defined as the length of time that an employee has been employed in the department in which he is then employed, from his last date of entry into that department. Operator-In-training (O.I.T.) seniority shall be credited to the employee upon the employee becoming a licensed Operator.
- C. Divisional Seniority, which is defined as the length of time that an employee has been employed in the division in which he is then employed, from his last date of entry into that division.

Section 4: The City shall provide Local 1039 with two (2) copies of a seniority list and post in each work place within fourteen (14) calendar days after the effective date of this Agreement and every three (3) months thereafter, showing the seniority of each employee in the bargaining unit by classification, department and city-wide. Any employee shall have ten (10) working days after the list is prepared and posted in the department (or after knowledge of the list) to protest his position on that list. If no challenge is received, the list shall be deemed accurate for the remainder of the posting period.

In the event two (2) or more employees have the same starting date, the oldest employee shall have greater seniority.

In the event two (2) or more employees request the same day off, the employee with greater bargaining unit seniority shall be given first consideration.

Section 5: Shift Selection

- A. Shift selection shall be based upon bargaining unit seniority. Employees having greater bargaining unit seniority in the classification shall have the first choice of shift assignments.
- B. New employees in any classification may be assigned to a shift for the purpose of training for a period not to exceed thirty (30) working days or the otherwise specified term of the training, whichever is the greater period of time. Following the employee's successful completion of the training, he shall be assigned to a shift according to bargaining unit seniority.

## ARTICLE 14 TEMPORARY ASSIGNMENTS

- Section 1: It is understood that temporary assignment is the assignment of an employee to a temporarily vacated position.
- Section 2: The City shall have the right to make temporary assignments to a temporarily vacated position due to the leave of absence, vacation, sick leave or emergencies. The temporary assignment shall not exceed the duration of the incumbent employee's absence.
- Positions that are vacated as a result of promotions, removals, resignations or emergencies may be filled by a temporary assignment, but a permanent appointment for such vacancies shall be made within 30 calendar days, if a permanent position is to be filled.
- Temporary emergency assignments shall pertain to flood gates and/or Act of God beyond human control.
- Section 3: Temporary assignments will be based upon qualifications and offered in the division, and then in the department by departmental seniority, after that the temporary assignment will be offered city wide by bargaining unit seniority. A temporary position that will be vacated for more than thirty (30) days will be posted and bargaining unit members shall have an opportunity to bid on the temporary position. The City may temporarily assign someone to the position while it is being bid.
- Section 4: Whenever bargaining unit employees are temporarily assigned to non-bargaining unit positions, the assignment shall be made in accordance with this Article. Should the temporary assignment in the non-bargaining unit position go beyond six (6) months, the employee shall cease to accrue bargaining unit seniority until he/she returns to his/her bargaining unit position.

ARTICLE 15    JOB POSTING AND PROMOTIONS

- Section 1:        Whenever an opening exists due to the promotion, retirement, termination, or other permanent removal of the incumbent, the increase in the number of positions, or creation of a new position in the bargaining unit, the opening shall be filled in accordance with this Article.
- Section 2:        Notice of the position vacated shall be posted by the City in a manner sufficient to provide current bargaining unit employees with reasonable opportunity to become aware of the position. The posting period shall be for five (5) working days. The notice shall state the classification, department, shift, qualification; pay rate and date bidding will close. The vacated position shall be filled within thirty (30) calendar days. Nothing in this Section bars the City from simultaneously advertising this position outside the bargaining unit at the same time that it is being advertised to be filled within the bargaining unit.
- Section 3:        The City shall have the right to establish reasonable qualifications for all bargaining unit positions. These qualifications shall be incorporated into a job description and forwarded to the Labor/Management Committee.
- Section 4:        Bargaining unit members who have completed their probationary period and are qualified who desire the position shall submit a written timely application to the Mayor.
- Section 5:        All timely filed applications shall be reviewed by the City and the position shall be awarded within ten (10) calendar days of the last day of posting, to the most qualified employee who has the greatest bargaining unit seniority.
- Section 6:        Whenever the qualifications of two (2) or more employees are equal, the employee with the greatest bargaining unit seniority will be awarded the position.
- Section 7:        An employee who successfully bids for a position may not bid for another position for a period of thirty (30) days after the date of the bid.
- Section 8:        An employee promoted pursuant to this Article shall serve a promotional probationary period of ninety (90) calendar days commencing with the effective date of the promotion.
- An employee who fails to qualify for the promotional position may be removed by the City or themselves prior to the expiration of the ninety (90) day period. An employee removed by the City or themselves during the probationary period shall have the right to return to their former position and former rate of pay without loss of seniority.
- Section 9:        Unless otherwise filled by the bidding procedure or temporary assignment provisions of this Agreement, a position vacated by the promotion of the incumbent pursuant to this Article, may be filled by temporary assignment in accordance with the posting and promotion procedures of the Article, until the completion of the incumbent employee's probationary period. Upon successful completion of the promoted incumbent employee's probationary period, their position will be posted as a permanent position in accordance with this Article.
- Section 10:       "Successful Bid" shall be defined as when a job posting has been offered and accepted.

ARTICLE 16 LAYOFF AND RECALL

Section 1: Should the City determine that a reduction in the work force is necessary, all seasonal, emergency, temporary, newly hired probationary and part-time employees shall be laid off in that order first.

Section 2: Thereafter, should the City determine any further reduction in the work force is necessary, reduction shall be made in the inverse order of bargaining unit seniority in the designated classification of layoff. The employee with the least continuous bargaining unit seniority in the designated classification of layoff shall be laid off first. The designated classification shall be only in the department where the reduction is to occur. The City shall give a one-week notice of the intent to reduce the work force. The notice shall state the date layoffs will begin.

Section 3: An employee who is displaced from his classification as result of job abolishment or reduction in the work force, shall have the right to exercise his bargaining unit seniority in the following order to:

1. Displace the employee with the less bargaining unit seniority in any classification, provided the displaced employee is physically able and qualified to perform the essential functions of the position in the classification to which he seeks to exercise his displacement rights;
2. The bargaining unit member shall have one (1) week to complete bumping procedures from date of official notice that layoffs will begin.

Section 4: Laid off and/or displaced employees shall be placed on a preferred recall list, and shall have the right of recall for the length of their seniority.

1. Vacancies within their classification; and
2. Vacancies within another equally or lower rated classification for which they are capable and qualified to perform, prior to any promotion or hiring from the outside by the City.

Recall shall be made in the inverse order of layoff or displacement by mailing notice to the employee's last known address, by certified mail, return receipt requested.

Section 5: Should two (2) or more employees have the exact same bargaining unit seniority dates, the oldest employee shall be deemed the senior employee for purposes of layoff, displacement and recall.

ARTICLE 17 LEAVES OF ABSENCE

Section 1: Medical Leave

Employees who are no longer capable of working because of a work related or non-work related illness or injury may request an unpaid leave of absence.

It is the employee's obligation to furnish the Employer the necessary medical evidence and any requested information to justify the granting of such leave or the continuance thereof.

It is the employee's responsibility to request a medical leave and such leave is not granted automatically when the employee's sick leave has expired. Any employee returning from a medical leave of absence shall be required to submit to the Employer proper medical certification that he is able to perform all the duties of his former position with the City. Upon review and approval by the City of the employee's medical certification, the employee submitting such medical certification shall be reinstated and assigned to a position within the employee's former work location and/or shift. The City agrees to timely process all workers compensation forms.

Section 2: Funeral Leave

Employees shall be entitled to three (3) days funeral leave with pay, not chargeable to sick leave, for death in the employee's or his spouse's immediate family when the interment of the deceased is within 200 miles of Portsmouth, Ohio and five (5) days paid funeral leave when the interment is farther than 200 miles from Portsmouth, Ohio.

In the event of a death of a relative of the employee or his spouse other than immediate family, the employee shall receive one (1) day of paid funeral leave.

Immediate family for funeral leave purposes shall consist of spouse, mother, mother-in-law, stepmother, father, father-in-law, stepfather, son, daughter, step-children, brother, sister, grandchildren, grandparents, son-in-law, daughter-in-law, brother-in-law, sister-in-law, aunt, uncle, or any other relative living in the employee's immediate household.

Funeral leave must be taken on consecutive work days, one (1) of which must be the date of the funeral or memorial service, or the burial, which the employee must attend.

Section 3: Jury Duty/Witness Leave

Any employee who is subpoenaed or otherwise required to serve upon a jury or any court of judicial tribunal, or who is required to attend court as a witness for the City in any proceeding, shall be paid his regular rate of pay during such periods. The employee shall remit to the City Auditor whatever sum is paid to him as compensation by the tribunal or court for his appearance or service. The employee shall remit a certificate showing evidence that he appeared and served as mentioned above to receive the pay for same. The employee will not be paid for any witness leave for matters which the employee has an interest or is involved personally.

Section 4: 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 Ohio Revised Code Section 5923.05.

The employee will be compensated in accordance with the Ohio Revised Code. Proof of assignment shall be provided in the form of a copy of the military orders and the military pay stubs, or a copy given to the Department Head or excluded Management supervisor. In the case of an emergency call out, a bargaining unit member may be paid up to an additional two (2) weeks [ten (10) workdays] upon presentation of proper and acceptable documentation. The employee will not earn any sick leave or be able to receive any vacation or holiday benefits during this time; however, all other benefits will continue to accrue.

Section 5: Union Leave

- A. At the request of the Union and with the approval of the Mayor, an employee shall be granted a leave of absence without pay, not to exceed five (5) working days per year for attendance at Union conferences or conventions. Limit of two employees per year may be granted this unpaid Union leave.
- B. A bargaining unit member with two (2) years service with the City who accepts a full-time assignment with the Union at the state or national level shall be granted a leave of absence for such assignment not to exceed one (1) year. The bargaining unit member shall continue to accrue seniority but no other benefits during such leave. The bargaining unit member must apply for such leave two (2) weeks prior to the date they wish to be released, and annually thereafter on the anniversary date of such leave. A bargaining unit member who fails to apply annually shall stand voluntarily terminated.

Section 6: 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 Family and Medical Leave for the following reasons:

1. to care for a newborn son or daughter;
2. for a placement of a son or daughter with the 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.

Entitlement to leave pursuant to A(1) or A(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 a thirty (30) day notice, or as much notice as is practicable in foreseeable situations.

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.)

Medical certification shall be required to substantiate leave for the reasons stated above with the City having the option of requiring second and third opinions. The City shall pay for second opinion and the parties shall split the cost on third opinion. Medical certification for an employee's personal illness shall include the following:

1. the date the condition began;
2. the probable duration of the condition;
3. appropriate medical facts regarding the condition and the necessity for the leave; and
4. a statement that the bargaining unit member is unable to perform the essential functions of his/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 employee and provided all requirements have been satisfied.

When a bargaining unit member uses family and medical leave on an intermittent or reduced leave schedule basis, the City 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 City paying the City's share of the health insurance premium. The employee must make arrangements for payment to continue his/her portion of the health insurance premium. The City may recover any premiums paid if the employee fails to return to work, 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 purpose of this Article, the following definitions shall apply:

1. "Serious Health Condition"- an illness, injury, impairment, or physical 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.
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 18 SICK LEAVE

- Section 1: Each employee shall accumulate sick leave with pay at the rate of one and one-quarter (1-1/4) workdays per month of service. Sick leave shall accumulate without limit for all regular, full-time employees. Employees do not accumulate sick leave when on unpaid leaves of absence.
- Section 2: Employees may use sick leave for personal illness or injury, medical, or maternity related conditions, and continuing treatment for an illness or injury, quarantine for a contagious disease or for the illness or injury of a member of the immediate household, or employee's spouse and/or parent outside the immediate household.
- Section 3: Any employee whose accumulated sick time is less than time off requested is required, upon return to work, to produce a doctor's certificate.

ARTICLE 19 HOURS OF WORK AND OVERTIME

- Section 1: Eight (8) hours per day and forty (40) hours per week as regularly assigned, shall constitute a regular work week or day, except those employees who are regularly scheduled a shift work, who shall work a regular eight (8) hour per day shift, and forty (40) hours per week as scheduled.
- The assigned schedule shall consist of five (5) consecutive days with two (2) consecutive days off.
- Section 2: Any employee who is required to work beyond or prior to his regular scheduled shift shall be compensated at the rate of time and one-half (1-1/2) his regular rate of pay for all work performed.
- Section 3: All work performed on an employee's sixth (6<sup>th</sup>) or seventh (7<sup>th</sup>) day shall be compensated at the rate of one and one-half (1-1/2) times his regular rate of pay. This provision shall not apply to employees who are not regularly scheduled to work forty (40) hours per week.
- Section 4: Overtime or premium rates shall be paid to all permanent employees after they have worked or been in a pay status for eight (8) hours per day or forty (40) hours per week.
- Section 5: The administration shall not make indiscriminate changes in the regular work schedules for the purpose of circumventing the payment of premium rates of pay.

- Section 6: Overtime shall not be pyramided, employees may receive daily or weekly overtime but not both, should two (2) or more provisions for premium rates prevail, the provision that provides the highest rate shall prevail.
- Section 7: Each employee in the bargaining unit shall have the privilege of electing to receive compensatory time, or pay at time and one-half. The employee must notify the supervisor at the time overtime is requested, if he wishes to receive compensatory time or pay at time and one-half. Employees must receive prior approval before charging an absence to compensatory time. Employees shall be allowed to cash in up to forty (40) hours compensatory time twice per year for cash with a thirty (30) day notice to their department and to the Auditor's Office.
- Section 8: The City will make every effort to equally distribute and rotate overtime among employees qualified to perform overtime work, by (1) division, (2) department, (3) city-wide, in this order who have signed up on the overtime list making themselves available for overtime assignments and call outs. Seasonal, temporary, casual and intermittent employees shall not work overtime except in emergency situations.
- Section 9:
- A. The equitable distribution of overtime as near as possible shall be accomplished according to individual memorandums of understanding negotiated and signed in each department. These memorandums shall not be in conflict with this basic agreement and shall address the following issues in 1-4 and contain B (1 through 8):
1. How an overtime list is maintained;
  2. Call out procedures for overtime taking into consideration availability and qualifications;
  3. How overtime hours are distributed and charged to bargaining unit members; and
  4. Miscellaneous matters concerning overtime distribution.
- B. The equitable distribution of overtime as near as possible shall be maintained as follows:
1. Post the overtime roster in each division, in a conspicuous place for all employees to view.
  2. All whole hours of overtime shall be posted weekly or as is current practice, except when an employee is called out on a weekend, those hours shall be posted no later than the following Monday.

3. When scheduling or calling out employees for overtime, the qualified employee with the least amount of overtime hours shall be called first from the overtime list.
4. All employees who are in a pay status except sick leave shall be considered eligible to work and receive overtime compensation.
5. An employee who chooses not to work an overtime assignment shall be charged a REFUSAL (R) for the number of overtime hours worked during the assignment or call-out.
6. An employee who cannot be reached to work an overtime assignment shall be charged a NO-CONTACT (NC) for the number of overtime hours worked during the assignment or call-out.
7. Overtime shall be called or assigned to those employees who voluntarily sign up for overtime all-outs and assignments. All available employees are required to respond and work emergency overtime.
8. When the overtime list has been called and no one will work, the least senior qualified employee will be required to take the overtime assignment. Refusal could result in discipline.

ARTICLE 20 FRINGES AND COMPENSATION

Section 1: Longevity-Pay Supplement. All bargaining unit employees who have completed the years of service by October 31 of each year shall receive a longevity pay supplement as follows:

Years of Completed Service	Years Supplement Amount
5 years	\$ 300.00
10 years	\$ 420.00
15 years	\$ 480.00
20 years	\$ 545.00
25 years	\$ 605.00

Payable on or about December 1<sup>st</sup> each year, any bargaining unit member who retires before December 1 will receive a prorated longevity supplement payment based on the nearest whole month of completed service for that year.

Section 2: Temporary Assignment Pay. An employee who is assigned or scheduled to perform the work of a higher classification and performs the work of the higher classification for a period of one (1) continuous hour or more shall be compensated during the entire period of performing the higher rated job at the equal step of the pay range in the classification and shall continue to receive the higher rate for as long as he is assigned to perform the duties of the higher classification.

Section 3: Shift Differential. Any employees whose regularly scheduled shift includes the majority of hours of work between 4:00 p.m. and 6:00 a.m., or any weekend hours (Saturday or Sunday) shall receive an additional fifty cents (\$0.50) per hour for the entire shift during those hours. Employees working overtime between the hours of 4:00 p.m. and 6:00 a.m. will not receive shift differential, and such differential will not be included in the computation of the proper overtime rate.

Section 4: Call-Out Pay. Employees who are called to return to work after completion of their regularly scheduled shift, but prior to 6:00 a.m. on any weekday shall be guaranteed a minimum of two (2) hours pay at the applicable rate of pay.

Employees who are called to return to work on any scheduled day off or Holiday, if such scheduled day off or Holiday is not part of the employee's regularly scheduled work week, shall be guaranteed a minimum of three (3) hours of pay at the applicable rate.

If an employee is called to report to work less than two (2) hours prior to his regularly scheduled shift, and works into his regular shift hours, he will receive overtime for the time worked prior to his regular shift, if he completes his regular shift.

Section 5: Emergency Man. Employees who are required to remain on standby for emergency call-outs shall receive \$175.00 per month. Each department shall spend no more than \$1,400.00 per month. The emergency man will not receive overtime compensation until after the ninth (9<sup>th</sup>) call-out hour in any month. The call-out man can only hold one position for which he receives pay under this Section 5.

Section 6: Personal Items. Personal items not covered by a City insurance plan and destroyed, damaged, lost or stolen in the line of duty shall be replaced or repaired by the City at the City's expense. An employee must file a report of the loss or damage within twenty-four (24) hours of the discovery stating the circumstances involved.

Personal items are defined as watches, eye glasses, dentures, contact lenses, and any other article approved by the department head. All jewelry is excluded from reimbursement except watches, which will have a maximum replacement value of no more than seventy-five dollars (\$75.00). This Article does not apply to loss or damage due to the inattention of the employee.

#### ARTICLE 21 RETIREMENT BENEFITS

Section 1: Employees who retire into an approved retirement plan shall receive a lump sum payment, which is based upon the following schedule:

1. 100% payment credit for unused sick leave earned prior to July 1, 1981;
2. 33-1/3% payment credit for unused sick leave earned after July 1, 1981;
3. 100% payment credit for all unused vacation leave earned.

Section 2: Employees who retire into an approved retirement plan shall receive a lump sum payment, which reflects the following rate of calculation formula:

1. The hourly rate shall be determined by the employee's hourly rate as contained in Appendix A wage rates or dividing the employee's total salary earned during the twelve-month period immediately preceding his retirement by 2080 hours whichever hourly rate is higher.

Section 3: An employee who has accumulated sick leave prior to July 1, 1981 may use sick leave days from this total. In the event that days are used from this total, the employee may replenish these days from future sick leave as earned. However, that amount replenished shall never exceed the amount recorded as of July 1, 1981, for purposes of the 100% buy-back described under Section 1.

Section 4: In the event of the death of any employee during the employee's period of employment, a death benefit lump sum shall be paid to the employee's beneficiary in accordance with the formula and rate established in this Article as a retirement benefit.

ARTICLE 22 CLOTHING ALLOWANCE

Section 1: The City shall issue a check in the amount of Five Hundred (\$500.00) Dollars per contract year for the purchase of approved clothing and safety shoes for the employee. The shirts must have sleeves no shorter than standard short sleeve t-shirt with a City emblem and be an approved color.

The City shall issue a check in the amount of one hundred fifty dollars (\$150.00) per Contract year to each member of the bargaining unit for the purchase of safety shoes for those members required to wear safety shoes, but not required to wear the standard uniform.

Section 2: Checks issued per this Article will be issued on or about May 1 of each contract year.

Section 3: The City will replace safety shoes damaged while on the job.

Section 4: The following employees shall be required to wear a uniform and safety shoes at all times while performing their duties for the City.

1. Common Laborer
2. Utility Person/Truck Driver
3. Fleet Manager/Stock Room Clerk (Garage)
4. Special Projects Coordinator
5. Traffic Light Technician
6. Meter Reader
7. Meter Repair Person
8. Light Equipment Operator
9. Heavy Equipment Operator
10. Non-registered Operator
11. Laboratory Technician I and II
12. Registered Operator I and II
13. Mechanic I and II
14. Water Collection/Hydrant Repair Person II
15. Crew Leader
16. Utility Person/Janitor
17. Supervisor

Employees not wearing their safety shoes or uniforms may be disciplined. Employees may be disciplined for altering or defacing uniforms.

Section 5: Upon completion of the probationary period, the City will immediately extend the benefits of this Article to the newly hired employee.

## ARTICLE 23 HOSPITALIZATION

- Section 1: The City shall make available to bargaining unit members who have completed their initial probationary period of one hundred and twenty (120) working days and their eligible dependents substantially similar group health hospitalization, surgical, and major medical insurance coverage and benefits as existed in the City's conventional insurance plan immediately prior to the signing of this Agreement. The City reserves the right to change or provide alternate insurance carriers, or to self-insure, as it deems appropriate for any form or portion of insurance coverage referred to in this Article, so long as the new coverage and benefits are substantially similar to the conventional insurance which predated this Agreement. Employees shall pay a share of the cost of the insurance coverage premiums. Members enrolled with a family plan coverage shall pay One Hundred Twenty-five (\$125.00) 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 cost. Said employee payments will be deducted from the employee's bi-monthly regular payroll checks. The monthly deduction will be split equally.
- Section 2: The City reserves the right to institute the same cost containment measures as implemented on all other City employees relative to insurance coverage so long as the basic level of insurance benefits remain substantially similar to the conventional insurance coverage in effect immediately prior to this Agreement. Such changes may include, but are not limited to, mandatory second opinions for elective surgery, preadmission and continuing admission review, preferred provider provisions, prohibition on weekend admissions except in emergency situations, and mandatory out-patient elective surgery for certain designated surgical procedures.
- Section 3: The failure of any insurance carrier(s) or plan administrators to provide any benefit for which it has contracted or is obligated shall result in no liability to the City, nor shall such failure be considered a breach by the City of any obligation undertaken under this or any other Agreement. However, nothing in this Agreement shall be construed to relieve any insurance carrier(s) or plan administrators from any liability it may have to the City, bargaining unit member or beneficiary of any bargaining unit member.
- Section 4: Any change in benefits or coverage as a result of a change in insurance carriers or to self-insurance shall be reviewed by representatives of the bargaining unit to insure compliance with this Article. The bargaining unit reserves the right to utilize the established grievance procedure or other legal processes as it deems necessary to insure compliance.

ARTICLE 24 VACATIONS

Section 1: Employees shall earn vacation with pay in accordance with the following table showing completed years of full-time service with the City of Portsmouth:

COMPLETED YEARS OF SERVICE	VACATION
One (1) Year (12 calendar months)	Fifteen (15) Days (120 Hours)
Five (5) Years	Twenty (20) Days (160 Hours)
Ten (10) Years	Twenty-five (25) Days (200 Hours)
Fifteen (15) Years	Thirty (30) Days (240 Hours)

Section 2: Vacations are granted to employees in accordance with the scheduled outlined in Section 1 for TIME WORKED and in accordance with Section 8 below. An employee who requests and receives approval for a leave of absence without pay shall not be credited with vacation time earned for any period of time off without pay. Vacation time earned for a particular year of service shall be prorated to reflect the employee's actual time worked, excluding any leave of absence without pay granted to the employee during that year. Bargaining unit members will not earn vacation while drawing Workers' Compensation claim.

Section 3: Vacation time earned by an individual employee as of his anniversary date during a particular year will be posted in accordance with the schedule outlined under Section 1 on or about the first of January during that same calendar year. Said vacation time, however, will not have been earned by the employee until the employee's anniversary date during the same calendar year in which it has been posted. No employee will be permitted to take a vacation until after one (1) full year of service with the City of Portsmouth.

Section 4: Vacation time shall, except as provided in Section 5, be taken during the same calendar year in which it was posted and scheduled and shall be based upon the employee's anniversary date of hire with the City of Portsmouth.

Section 5: An employee who does not use his/her accumulated vacation in a calendar year shall be granted the option of carrying over a maximum of forty (40) hours vacation of the accumulated vacation to the next calendar year upon notification to the payroll clerk. All carried over vacation must be used no later than April 15<sup>th</sup>.

Because of an emergency situation where the bargaining unit member has more than forty (40) hours of vacation remaining at the end of the year, they may apply for and receive a cash payout for the unused hours upon the approval of the Mayor.

Section 6: Whenever vacation cannot be granted to two or more employees for the same requested vacation period because of operational needs of the Employer, the employee with the most citywide seniority will be granted the vacation.

Section 7: An employee shall be paid at his current rate of pay for all unused and accrued vacation leave earned at any time of separation from employment with the City. Vacation pay shall be prorated according to the individual employee's completed months of service and shall be based upon the employee's anniversary date of hire with the City.

Section 8: Vacation Scheduling

Promptly after December 1 of each calendar year, starting with December 1, 1997, each eligible employee shall be requested to specify one-half (1/2) of his/her allotted vacation but not less than two (2) weeks by choosing the vacation period he/she desires for the next calendar year. Vacations, so far as practical, will be granted at times most desired by employees (the most senior employee being given preference) in order to ensure the orderly operation of the City Departments, provided that vacations shall be scheduled between January 1 and December 31 of each calendar year. It is understood that the week containing January 1 shall be considered the first week of the new calendar year. The City has the right to change an employee's vacation period due to unforeseen circumstances; however, any employee whose vacation is canceled due to these unforeseen conditions will have the option of rescheduling or carryover over his vacation.

Vacations shall be scheduled according to seniority, two lists will be established with the most senior employees selecting their vacation period during December 1 through 10 and the junior employees selecting their vacations during the period of December 11 through 20.

A bargaining unit member absent from work during the scheduling period because of layoff, disability leave or an approved leave of absence, will be requested to specify the period he/she desires. If the bargaining unit member does not respond, then the bargaining unit member will be permitted to schedule vacation upon their return to work, however, the bargaining unit member will not be permitted to bump another employee who has already scheduled his/her vacation during the December 1-31 scheduling period. All unscheduled vacation time will require a forty-eight (48) hour advance notice and approval of the department head before it can be used; in case of emergency the department head can waive the forty-eight (48) hour notice requirement.

ARTICLE 25 HOLIDAYS

Section 1: The City of Portsmouth shall recognize the following holidays:

1. New Years Day
2. Martin Luther King's Birthday (Celebrated )
3. Presidents Day
4. Good Friday
5. Memorial Day
6. Independence Day
7. Labor Day
8. Veterans Day
9. Thanksgiving Day
10. Day After Thanksgiving
11. Christmas Eve Day
12. Christmas Day

Section 2: If any of the holidays specified in Section 1 fall on a Saturday, the Friday immediately preceding shall be observed as the day off. If any of the holidays specified in Section 1 fall on a Sunday, the Monday immediately following shall be observed as the day off. The City will only pay holiday premium on the day that the holiday is being observed. An employee that works other than a Monday through Friday work schedule shall observe the holiday on the actual day of the holiday which becomes their observed day.

Section 3: Any employee who has completed his initial probationary period and who is required to work on any of these holidays or on the day observed as a holiday shall receive time and one-half his regular rate of pay, in addition to his regular pay.

Section 4: Should any of these holidays fall during a vacation leave or any scheduled day off, the employee shall receive an additional vacation day or an additional day's pay, whichever he chooses.

Section 5: An employee forfeits his holiday pay when any of the following occur:

1. He is off without pay at any time during the week of the holiday.
2. He is absent without pay or without proper authorization on either the work day immediately preceding or the work day immediately following the holiday.
3. He is absent without pay or without proper authorization on the holiday in which he is scheduled to work.

Section 6: All holidays shall be used during the same calendar year in which they were earned. Holidays may not be carried over from one year into the next. Holidays, which have not been used by December 31 of the year in which they were earned are lost.

ARTICLE 26 CIVIL SERVICE RIGHT WAIVER

WHEREAS, provisions of this Collective Bargaining Agreement, as provided for under Section

4117.10 ORC, and as mutually agreed to by the City and the Union, set forth the terms and conditions of bargaining unit employees employment and right to appeal through the grievance procedures, the Union hereby waives, on behalf of all bargaining unit employees, the right of each and every such employee to pursue appeals to the Portsmouth Civil Service Commission regarding matters formally within the jurisdiction of said Commission, and which are not covered by the terms and conditions of this Agreement.

ARTICLE 27 LICENSE/CERTIFICATION PAY

- Section 1: City employees other than operators in the water and waste water division/public utilities, who become licensed, shall not receive an automatic salary increase unless assigned to a position to which the license applies. Operators in the water and wastewater division/public utilities, who become licensed as Class I or Class II operators, shall receive Class I or Class II pay according to their respective licenses.
- Section 2: Operators in the water and wastewater division/public utilities, who become licensed as Class III operators, shall not receive Class III pay unless assigned to a Class III position.
- Section 3: The City shall reimburse registered operators for the actual cost of fees to keep their licenses current.
- Section 4: The Laboratory Technicians in the Water and Waste Water plants shall receive \$500.00 per certificate up to a maximum of \$1,000.00, payable once per year on the first payroll check issued in December.
- Section 5: A Class III license in water or waste water shall receive \$500.00 once per year payable the first payroll check in December, and bonuses are paid only for the division where the employee works.
- Section 6: Any licensed operator assigned a temporary working level of a supervisor will only be paid for the working level including the bonus for having a higher license when the individual possesses the license for which the bonus is used for the calculation of the temporary working level.

Section 7:

- A. The City will pay up to two (2) bargaining unit members three hundred fifty dollars (\$350.00) stipend for maintaining a current license recognized by the EPA and the State of Ohio for spraying pesticides and weed control chemicals. The City will pay an additional fifty (\$50.00) dollars for each additional endorsement they have and which is utilized, up to a maximum of five hundred (\$500.00) dollars or an additional one hundred fifty dollars (\$150.00).
- B. This stipend will be paid on or about December 1 each year of this Agreement that the bargaining unit member has the position.
- C. The City shall reimburse these employees the actual cost of fees to keep their licenses current.

ARTICLE 28 INTEGRITY OF AGREEMENT

The City and the Union agree that the terms and provisions contained in this written Agreement constitute the entire agreement between the parties and supersede all previous communication, understandings, or memorandums of understanding pertaining to any matters set forth in the Agreement or to any other matter. The City and the Union agree, that during the negotiations which preceded this Agreement, each party had the unlimited right to make demands or proposals and to bargain about each and every proposal made. The parties further agree that during the term of this Agreement, each voluntarily and unqualifiedly agrees to waive the right to bargain with respect to any matter whatsoever whether or not such matter is contained in this Agreement.

ARTICLE 29 CONTRACT REPRODUCTION

This contract shall be completed with at least eight (8) original documents for signature, with the Union receiving five (5) signed originals and the City receiving at least three (3) signed originals. Necessary remaining copies for all Union members and City Administration officials shall be reproduced with each party bearing one-half of reproductive cost.

ARTICLE 30 CONTRACTING OUT

- Section 1: The City shall have the right to contract out work provided that no bargaining unit employee is laid off, reduced in pay or demoted as a result of contracting out.
- Section 2: The City agrees to meet and confer with the Union prior to said contracting out so as to allow the Union to determine if the bargaining unit can meet the specifications of such contract.

ARTICLE 31 RESIDENCY

All bargaining unit members will follow the residency requirements set forth in the Ohio Revised Code (9.481).

ARTICLE 32 HEALTH AND SAFETY

- Section 1: The City agrees to comply with all applicable State and Federal health and safety regulations or codes.
- Section 2: Protective equipment and other devices necessary to properly protect employees from injury and sickness shall be provided by the City.
- Section 3: The safety committee of three (3) union representatives, which include the Union President and two other union members selected by the Safety Coordinator, and at least three (3) non-union representatives of the City to be designated by the Mayor, shall meet on matters pertaining to safety at least monthly or as needed. All members are expected to attend the monthly meetings.

ARTICLE 33 COMMERCIAL DRIVERS LICENSE

- Section 1: Employees whose positions require a valid State of Ohio Commercial Drivers License are required to possess such license with proper and necessary endorsements.
- Section 2: The Employer will endeavor to make available voluntary training to assist those individuals whose positions require such license. Such training will be designed to provide them with information to assist them in preparing for the necessary test(s).
- Section 3: The Employee will endeavor to arrange such training at a City work site during regular working hours.
- Section 4: The Employer will arrange for such employees to be able to obtain the necessary physical examination required for said license through the City Health Department at no cost to the employee.
- Section 5: The Employer will pay the cost of the initial CDL for all current employees whose positions require said CDL after the effective date of this Agreement. The Employer will also pay the cost of all employees' CDL who obtain said CDLs with the understanding that the employee will be required to step up into a position requiring a CDL when necessary. The City will pay the renewal cost of a CDL over the cost of a regular drivers license.
- Section 6: Employees who do not possess the required CDL with endorsements will not be permitted to operate the City's equipment. The employee will be removed from his position and will be offered any other available/open position for which he is qualified that might exist in the bargaining unit. If no such position exists for which he is qualified, the employee will be laid off in accordance with Article 16 of this Agreement.
- Section 7: An employee who loses his driving rights for a period of sixty (60) days due to a violation of law, may move to an available/open position for which he is qualified that does not require the operation of any City owned and/or leased equipment. During this period, the City will fill his vacated position temporarily for 60 days until the employee again obtains his CDL. Should no open and/or vacant position exist for which he is qualified, the employee will be laid off in accordance with Article 16 of this Agreement.
- Section 8: An employee, who loses his driving rights for a period of one hundred twenty (120) days due to a violation of law, must go two (2) years without any violation in order to be restored to his former position. A positive drug test will be treated the same as a driving violation.

ARTICLE 34    AFSCME CARE PLAN

Section 1:        Effective May 1, 2006, the Employer shall contribute seventy-four dollars (\$74.00) per month to the Ohio AFSCME Care Plan for each employee who is covered by this Agreement for the purpose of providing Vision Care II, Dental II-A, Prescription Drug, Hearing Aid, Life Insurance and Legal Care Plan.

ARTICLE 35    PAY CHECKS/PAY DAYS

Section 1:        Employees shall receive their entitled pay checks on the fifth and twentieth day of each month, as is current practice. Should the set pay day fall on the employee's day off, said employee shall receive their pay check on their last work day prior to the due date, if available.

Section 2:        It is agreed that pay stubs shall continue to list all deductions as being made, i.e., taxes withheld, union dues, additional insurance, sick leave earned, sick leave used and balance of the same.

It is also agreed that there shall be a slot for credit union deductions and other deductions, which shall be deducted after receiving written authorization from the employee on the authorized forms.

ARTICLE 36    WAGES

Section 1:        Effective May 1, 2012 and May 1, 2013, employees will be paid the wage rate as listed in Appendix A for Contract year 2011.

Either party may reopen this Article for the purpose of negotiating and establishing salaries for contract year beginning May 1, 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 the beginning of the contract year for a 2014 re-opener. Negotiations for the re-opener shall be subject to and conducted in accordance with Chapter 4117 of the Ohio Revised Code.

Section 2:        Bargaining unit members will be paid in accordance with their job classification and pay rate as found in Appendix A attached to and made a part of this Agreement.

Section 3:        The City will pick-up seven percent (7%) pension pick-up on behalf of each employee in the bargaining unit.

ARTICLE 37 ALCOHOL AND DRUG TESTING

Section 1: Alcoholism and drug abuse or addition is 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.

Section 2: Testing can be done under four circumstances:

- A. Appropriate Management or supervisory personnel may 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.
- B. The City may randomly test any employee.
- C. The City may test any employee after a vehicular accident of one hundred and fifty dollars (\$150.00) involving City equipment.
- D. An employee may of his own volition undergo a drug or alcohol screening test if he is involved in an accident. Testing done under these circumstances will be treated in the same manner as if the employee had been ordered to undergo screening as outlined in A,B, or C above.

Section 3: 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 order the employee to undergo a confirmatory test at a different laboratory, if available. 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 a loss of pay before the time the confirmatory test results are complete.

Section 4: 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 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. 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.

- Section 5: 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.
- Section 6: All test results and actions taken under or pursuant to this Article shall be kept confidential in accordance with state and federal law.
- Section 7: The Employer shall pay for drug alcohol screening and confirmatory tests as well as for costs of a rehabilitation or detoxification program, which exceeds the amounts paid by insurance.
- Section 8: The Employer shall use the drug testing procedure in good faith. It shall not be used as a method to harass employees.
- Section 9: Employees must notify the Employer of any prescription drug use, which may affect his job performance.
- Section 10: As of January 1, 1995, all positions in the City of Portsmouth requiring a Commercial Drivers License (CDL) or a safety sensitive position as defined by the Department of Transportation shall be subject to random drug testing per federal regulations.
- Section 11: As of January 1, 1995, all employees of the City shall be subject to drug testing upon reasonable suspicion and for just cause.
- Section 12: Supervisors of the City shall be trained to recognize symptoms of alcohol and/or drug use.
- Section 13: Employees to be tested following the above guidelines shall be informed of their right to union representation before any test is given.

ARTICLE 38    TRANSITIONAL WORK EXPERIENCE

The parties to this agreement recognize and support the federal and state social goals to move welfare recipients into permanent unsubsidized employment. Such a move requires on the job skills. Such work should be fair to participants and designed to improve the likelihood of meaningful employment in the private and public sectors by providing skills to participants and a job reference.

Transitional workers are those who would not be on City payroll and would perform work tasks for the City, but shall not replace present jobs or work or normal overtime performed by Local 1039 members.

This cooperative approach would be beneficial to all and would allow the City to perform new services for our citizens beyond what our present work force can handle and would help provide a meaningful work experience to the transitional trainee so they can become a tax paying worker in our local, regional and national economy.

This agreement shall take effect immediately upon signing, and shall remain in full force and effect through the term of the collective bargaining agreement.

ARTICLE 39 OPERATOR-IN-TRAINING

Section 1: The City from time to time may have vacancies occur in the Water Treatment or Waste Water Treatment divisions of the Public Utilities Department. The City will post these vacancies under Article 15- Job Posting to allow all qualified bargaining unit members an opportunity to bid for the vacant positions. If the City needs a registered operator immediately it can hire outside the bargaining unit.

Section 2: The City will fill any vacant position, when there are no qualified bidders holding the required license when they have not hired someone outside the Bargaining unit because of Section 1, by posting the position a second time and accepting applications for an Operator-in-Training position. The second posting of the vacant position will be for five (5) days, and no applications will be acceptable after the posting closes.

The City may require applicants to pass a City approved Water/Wastewater course prior to acceptance as an Operator-in-Training (O.I.T.). If accepted into the O.I.T. program, the City will reimburse the employee for his/her cost of the approved completed course.

Section 3: Operator-in-Training program employees will be required to take the State Examination three (3) consecutive, eligible times, after being accepted into the OIT program, with the possibility of a fourth try if sufficient effort and progress has been made to warrant it as determined by the Department Director. No deviation from this section will occur unless an emergency situation prevents the employee from taking the exam as approved by the Department Director.

Section 4: Successful bidders will be subject to periodic evaluations by management. These shall be performed every thirty days as long as the employee is in the OIT program. If at any time during the program, management deems the OIT is not making sufficient progress towards obtaining the Certification or meeting job requirements they will be removed according to the following.

“Operator-in-Training employees removed or withdrawn from the OIT program within ninety (90) days of the appointment will be returned to their former position. If the said employee works beyond the ninety days, they can only be removed by management and they will be permitted to “bump” to a position where their bargaining unit seniority will allow them.”

Any employee who is removed or withdraws from the OIT program shall not be permitted to apply for another OIT position for a period of 24 months from the removal date.

Section 5: The City reserves the right to reject any applicant based on previous work habits.

ARTICLE 40    TERMINATION AND SAVINGS CLAUSE

Section 1:        This Agreement shall be in full force and effect for the period beginning May 1, 2012 and ending at midnight April 30, 2015, and thereafter from year to year, unless either party serves notice of the intent to termination or modify this Agreement at least sixty (60) days prior to April 30, 2015, or any successive April 30 thereafter.

Section 2:        Should a court of recognized jurisdiction determine that a provision of this Agreement is illegal, then such provisions shall be automatically terminated. The remainder of the Agreement shall continue in full force and effect. In the event that a provision is determined to be unlawful, City and the Union shall promptly meet for the purpose of negotiating a lawful alternative provision within 30 working days. Only that issue or provision terminated shall be the subject of the negotiations to replace it.

Section 3:        There shall be a wage re-opener in the year 2014.

APPENDIX A: CLASSIFICATION, CLASSIFICATION SERIES GRADE, JOB TITLES AND HOURLY RATES

**May 1, 2012**

CLASSIFICATION  
(Classification Series-Grade/Job Title)

<b>LABORER</b>	<b>STEP 1</b>	<b>STEP 2</b>	<b>STEP 3</b>
C- Common Laborer	\$ 10.16	\$ 10.67	\$ 11.92
F- Utility Person/Truck Driver	\$12.71	\$ 13.33	\$ 14.92
F- Utility Person/Truck Driver(Janitor)	\$ 12.71	\$ 13.33	\$ 14.92
<b>L- Fleet Manager-Public Service Dept.</b>	\$ 15.41	\$ 15.91	\$ 16.41
L- Utility Person/Truck Driver— (State License I- Water Distribution/ Waste Water Collection)	\$ 15.41	\$ 15.91	\$ 16.41

<b>EQUIPMENT OPERATOR</b>			
H- Light Equipment Operator	N/A	N/A	\$ 15.09
J- Heavy Equipment Operator	N/A	N/A	\$ 15.48

**UTILITIES SERVICE**

G- Meter Reader	\$ 14.05	\$ 14.57	\$ 15.05
I Water Meter Repair Man	\$ 14.42	\$ 14.93	\$ 15.41
K- Special Projects Coordinator	\$ 14.93	\$ 15.41	\$ 15.91
L- Crew Leader	\$ 15.41	\$ 15.91	\$ 16.41
L- Traffic Light Technician/Special Projects Assistant	\$ 15.41	\$ 15.91	\$ 16.41
P- Supervisors (Water Meters)	\$ 17.19	\$ 17.81	\$ 18.29

P- Supervisor Water Collection- Hydrant Repair Person (State License II Water Distribution)	\$ 17.19	\$ 17.81	\$ 18.29
P- Supervisors	\$ 17.19	\$ 17.81	\$ 18.29
P- Registered Operator III (Chief Operator)	\$ 17.19	\$ 17.81	\$ 18.29

#### TECHNICAL

K- Non-Registered Operator	\$ 14.93	\$ 15.41	\$ 15.91
K- Operator-In-Training	\$ 14.93	\$ 15.41	\$ 15.91
O- Laboratory Technician I	\$ 16.54	\$ 17.14	\$ 17.70
N- Registered Operator I	\$ 16.05	\$16.54	\$ 17.03
N- Mechanic I	\$ 16.05	\$16.54	\$ 17.03
O- Mechanic II	\$16.54	\$ 17.14	\$ 17.70
P- Laboratory Technician II	\$ 17.19	\$ 17.81	\$ 18.29
O- Registered Operator II	\$ 16.54	\$ 17.14	\$ 17.70

Q- Traffic Light Technician- Special Projects Supervisor	\$ 18.45	\$ 19.13	\$ 19.58
P- Building/Housing Inspector- (including plumbing, electrical, housing)	\$ 17.19	\$ 17.81	\$ 18.29
P-Back Flow Cross Connection Officer	\$ 17.19	\$ 17.81	\$ 18.29
P- Computer Programmer	\$ 17.19	\$ 17.81	\$ 18.29
Q- Chief Building Officer	\$ 18.45	\$ 19.10	\$ 19.58

**CLERICAL**

D- Clerk Typist I	\$ 12.23	\$ 12.68	\$ 13.18
D- Records Clerk I	\$ 12.23	\$ 12.68	\$ 13.18
E- Clerk Typist II	\$ 13.28	\$ 13.76	\$ 14.37
E- Cashier	\$ 13.28	\$ 13.76	\$ 14.37
E- Controller	\$ 13.28	\$ 13.76	\$ 14.37
E- Records Clerk II	\$ 13.28	\$ 13.76	\$ 14.37
K- Computer Operator/Payroll Clerk	\$ 14.93	\$ 15.41	\$ 15.91
K- Secretary	\$ 14.93	\$ 15.41	\$ 15.91

In those pay grades that provide “step increases”, step increases will be automatic after Six (6) month of service on a previous step.

APPENDIX B RECOGNITION OF THE CURRENT AFSCME UNIT

The City has abolished positions; the City and AFSCME have agreed to change positions and to modify and add classifications. The purpose of this Agreement is to define recognition of AFSCME in the deemed certified unit as amended. The current unit shall be defined as follows:

Common Laborer  
Utility Person/Truck Driver  
Utility Person/Truck Driver (Janitor)  
Fleet Manager (Garage- formerly Stock Room Clerk)  
Utility Person/Truck Driver (State License I-Water Distribution/Wastewater Collection)  
Heavy Equipment Operator  
Meter Reader  
Water Meter Repairman/Complaint Person  
Crew Leader  
Supervisor- Meters, Construction & Maintenance  
Water Collection/Hydrant Repair Person (State License II-Water Distribution)  
Supervisors (All Others):  
    Supervisor-Division of Street Construction, Maintenance & Repair  
    Supervisor- Division of Sanitation  
    Supervisor- Division of Flood Defense  
    Supervisor- Division of Maintenance and Construction  
Registered Operator III- Chief Operator  
Chief Building Official  
Operator-In-Training  
Ground Maintenance Supervisor  
Back Flow Prevention Officer  
Laboratory Technician I  
Registered Operator I  
Mechanic I  
Mechanic II  
Laboratory Technician II  
Registered Operator II  
Traffic Light Technician/Special Projects Supervisor  
Building Inspector  
Clerk Typist I:  
    Clerk Typist I- Public Service Department  
Records Clerk I  
Cashier  
Controller  
Records Clerk II  
Computer Operator/Payroll Clerk  
Computer Programmer  
Traffic Light Technician/Special Projects Assistant

The following positions are EXCLUDED from the AFSCME Local 1039 bargaining unit:

All elected officials  
Management level employees  
Professional employees  
Members of the Police and Fire Department  
Administrative Assistant to the Manager/Mayor  
Secretary to the Manager/Mayor  
Development Director  
Grants Technician  
City Clerk  
Emergency Flood Defense Worker (temporary)  
Auditor  
Deputy Auditor  
Payroll Clerk I  
Appropriation Clerk  
Tax commissioner  
Deputy Tax Commissioner  
Assistant Tax Commissioner  
City Solicitor  
Assistant Solicitor I  
Assistant Solicitor II  
Legal Secretary  
Investigator  
All Municipal Court Employees  
Executive Secretary-Civil Service Commission  
City Engineer  
Director- Public Service Department  
Assistant to Director-Public Service Department  
Seasonal Laborers  
Superintendent-Division of Meters, Construction & Maintenance  
Superintendent-Division of Sewage Treatment  
Superintendent-Division of Filtration & Pumping  
Director- Public Utilities Department  
Office Manager- Public Utilities Department  
Administrative Assistant – Police Department

Seasonal employees are those who work during a particular season and whose employment is for 90 days without successive appointments.

The following positions have been abolished; however, should they be recreated, AFSCME will be given recognition for these positions:

Administrative Assistant- Engineering Department  
 Supervisor-Traffic Control  
 Supervisor-Parking Meters  
 Supervisor-Parks and Recreation  
 Billing Machine Operator I and II  
 Clerk Cashier  
 Supervisor-Division of Garage  
 Parking Meter Enforcement Officer (Meter Maid)  
 Light Equipment Operator  
 Special Projects Coordinator  
 Supervisors (Water Meters)  
 Garage Supervisor/Chief Mechanic  
 Supervisor- Division of Greenlawn Cemetery  
 Non-Registered Operator  
 Engineering Aide I  
 Engineering Aide II  
 Engineering Aide III  
 Clerk Typist II- Community Development Department  
 Secretary- Engineering Department  
 Secretary- Police Department

The following positions have not been abolished but have been renamed:

<u>FORMER POSITION TITLE</u>	<u>CURRENT POSITION TITLE</u>
Police Records Section Clerk I	Records Clerk I
Police Records Section Clerk II	Records Clerk II
Utility Controller	Controller
Water Sewage/Cashier	Cashier
Sanitation/Cashier	Cashier
Janitor	Utility Person/Truck Driver (Janitor)
Custodian	Special Project Coordinator
Plumbing Inspector	Chief Building Official
Electrical Inspector	Building Inspector
Billing Machine Operator I	Computer Operator/Payroll Clerk
Billing Machine Operator II	Computer Programmer
Superintendent-Division of Garage	Garage Supervisor/Chief Mechanic
Stock Room Clerk- Garage	Fleet Manager –Public Service Department

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. Absenteeism creates numerous problems-especially unscheduled absences. Problems include costs associated with replacement, 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 member's job working for the City of Portsmouth. Members who cannot, or will not, fulfill their responsibilities 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:

- The nature and reasons for the absenteeism problem
- The member's work, productivity, and other employment history
- Whether a predictable pattern of absenteeism exists in the member's work records
- The economic costs to the City of Portsmouth
- The member's demonstrated ability and willingness to improve and to correct the problem
- Whether supervisors have monitored the problem and counseled members of a problem and applied sanctions fairly and consistently

BARGAINING UNIT MEMBERS ARE NOT SUPERVISORS FOR PURPOSES OF THIS POLICY.

Supervisors will record monitoring to provide documentation to show that the problem has been addressed and that 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 and/or the collective bargaining agreement
- Specific reasons for the member's absence and whether absences were intermittent or extended
- The nature of the member's job
- Attendance records of other members similarly situated
- Whether the discipline meted out was consistent with the discipline given other members in similar situations

## TYPES OF ATTENDANCE AND ABSENTEEISM PROBLEMS

Based on substantial evidence of misuse or abuse, the City of Portsmouth maintains the right to investigate any member's absence.

### SUSTANTIAL EVIDENCE DEFINED

Substantial evidence includes all evidence 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 USE*

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.

#### *FRAUDULENT USE*

Misrepresenting the need for leave or claiming illness or injury under false pretenses 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 non-scheduled. Scheduled absenteeism is absenteeism that is prearranged with management. Non-scheduled absenteeism is absenteeism that doesn't fit the definition of scheduled absenteeism.

The table below provides a non-exclusive listing of the types of scheduled and non-scheduled absenteeism that will be tracked on a regular basis.

#### *Examples for Scheduled and Non-Scheduled Absenteeism*

Scheduled	Non-Scheduled
Arranged use of Sick Leave	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 supervisor with as much advance notice (usually a minimum of forty-five minutes prior to start time) as possible.

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.

#### 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 illness. Members who abuse these privileges (for example, by “burning it as 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 18, State of Ohio Laws, and Federal Laws.

Agreed and Signed this 9<sup>th</sup> day of July, 2012

For AFSCME 1039

  
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AFSCME Local 1039 President, Keith Nylund

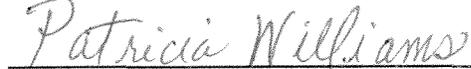
  
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Mayor David A. Malone

  
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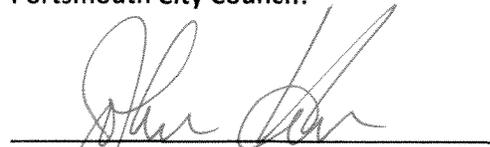
AFSCME Ohio Labor Council, Sandra Shonborn

  
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Portsmouth City Council:

  
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President, John Haas

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