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**AGREEMENT**  
**BETWEEN**  
**THE CITY OF BEAVERCREEK**  
**AND**  
**THE FRATERNAL ORDER OF POLICE, LODGE NO. 160**  
**(Patrolman)**

**Effective through**  
**December 31, 2024**

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**PREAMBLE**

This Agreement is made and entered into this 1st day of January, 2022, by and between the City of Beavercreek, Ohio, hereinafter referred to as the “City” and the Fraternal Order of Police Lodge No. 160, herein after referred to as the “Lodge”.

WHEREAS, the Lodge is the certified exclusive representative for the Employees of the City’s Police Department included in the Bargaining Unit hereafter described, and

WHEREAS, this Agreement was ratified by the Bargaining Unit members and authorized by City Council Resolution on March \_\_, 2022, and

WHEREAS, this Agreement incorporates all of the terms reached between the Lodge and the City concerning wages, hours, terms and other conditions of employment for the Employees in the Bargaining Unit, and said Agreement is reduced to writing and signed by the parties hereto in accordance with the requirements of the Ohio Collective Bargaining Law.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, the parties hereto agree as follows:

**ARTICLE 1**  
**PURPOSE**

Section 1.01. The purpose of this Agreement is to achieve the cooperation desired between the City and the Lodge to establish the basic wages, hours, working conditions, and fringe benefits for Employees and to provide for the peaceful adjustment of differences which may arise between said parties under this Agreement.

Section 1.02. The Lodge recognizes the Council as the elected representative of the citizens of the City and recognizes the Manager as administrator of the City.

Section 1.03. The City and the Lodge recognize the requirement that uninterrupted safety services to the citizens of the City must be provided in the most efficient manner and at the least possible burden to the citizens of the City.

Section 1.04. The City recognizes its responsibility to act fairly in reference to its employees covered by this Agreement and the Lodge and Employees recognize their responsibility to act fairly in reference to the City, Council and Manager.

Section 1.05. The City and the Lodge recognize that this Agreement is subject to the provisions of the Act.

## DEFINITIONS

Section 1.06. As used in this Agreement, the following terms shall have the meaning hereinafter described:

- A. "The City" and "the Employer" shall mean the City of Beavercreek.
- B. "The Manager" shall mean the City Manager for the City of Beavercreek.
- C. "The Council" shall mean the elected members of the City Council of the City of Beavercreek.
- D. "Employee" shall mean employees of the Police Department for the City of Beavercreek who are included in the Bargaining Unit hereinafter specified.
- E. "Bargaining Units" shall mean:

### UNIT A

Included:

All police employees holding the rank of Patrolman in the City of Beavercreek; Patrolman.

Excluded:

Chief of Police, Captains, Sergeants, Lieutenants, Secretary to the Chief of Police, Dispatchers, Records Clerk, Property and Resources Clerk, Community Relations/Crime Prevention Specialist and Facilities, Fleet and Equipment Coordinator.

- F. "Lodge" shall mean the Fraternal Order of Police, Beavercreek, Ohio, Beavercreek Lodge No. 160.
- G. "The Act" shall mean the provisions of Chapter 4117.01 et seq., Revised Code as enacted under 1983 Senate Bill No. 133.
- H. "Seniority" shall mean total length of continuous service in a full time position with the Department of Police. Service in a non-sworn position shall not be included for purposes of determining seniority in a sworn position. In the event more than one Employee begins service on the same date, the seniority ranking will be determined by the placement on the eligibility list with the Employee with the higher placement being ranked more senior. Absent an eligibility list, seniority shall be governed by a coin flip. In the case of Sergeants and Lieutenants, seniority shall be based upon the date of promotion. If promotion dates are the same, the seniority will be based upon total length of continuous service with the Beavercreek Police Department. Salary step increases shall have no effect on seniority.
- I. "Past Benefit" shall be a policy, procedure or practice which has been continuous and is known and sanctioned by the Chief of Police and which has a cost factor to the Administration and/or a monetary benefit to an Employee.

- J. “Past Practice” shall be a policy, procedure or practice which has been continuous and is known and sanctioned by the Chief of Police, but which does not have a cost factor to the Administration and/or monetary benefit to an Employee.
- K. “Chief” shall mean the Chief of Police for the City of Beavercreek.
- L. “Temporary Part-Time Employees” are defined as those persons employed on a part-time basis to work up to forty (40) hours per week for a period of time not to exceed six (6) months, or employees who are employed to work less than twenty (20) hours per week for a period of time not exceeding twelve (12) months.
- M. For purposes of computing the time within which an act is required or permitted to be done under Article 7, Grievance Procedure, and Article 8, Discipline, the term “working day” shall mean the normal working days of the Manager, which days are Monday through Friday, excluding holidays.
- N. “Regular Part-Time Employees” are defined as those persons employed on a part-time basis to a minimum of twenty (20) hours per week or more for a period of time exceeding six (6) months.
- O. “Injury” means any harm, damage, or grievous distress inflicted or suffered whether job related or not.
- P. “Illness” means the state of being in poor health, sickness, ailment, disease.

**ARTICLE 2**  
**RECOGNITION AND DUES CHECK-OFF**

Section 2.01. The City recognizes the Lodge as the exclusive representative with respect to wages, hours, terms, and other conditions of employment of the Employees in the Bargaining Unit described below.

Section 2.02. There shall be no discrimination by the City or the Lodge against any Employee on the basis of such Employee’s membership or non-membership in the Lodge.

Section 2.03. Upon presentation of a written deduction authorization signed by an employee, the City agrees to deduct the periodic dues, initiation fees, and assessments of members of the Lodge from the available wages earned by such Employee each month and to transmit the same to the Lodge on or before the last working Friday of the month in the month in which such sums were deducted. This authorization shall terminate immediately following the City’s receipt of such Employee’s written notice to cancel the deduction of the union dues from such Employee’s paycheck.

Section 2.04. The Lodge shall certify the amounts to be deducted from each Employee’s paycheck under Paragraph 2.03 above and the City shall be entitled to rely upon the accuracy of such certification and shall not be liable to any Employee by reason of any error in such certification. The Lodge shall indemnify and save harmless the City from and against any claim or demand brought or asserted by any Employee by reason of the City deducting from such Employee’s paycheck the amount certified by the Lodge under the provisions of this paragraph.

Section 2.06. Nothing herein shall require any employee to become a member of the Lodge or to pay dues or fees to the Lodge. Employees may voluntarily elect to pay a non-member fair share fee to the Lodge. The fair share fee shall not exceed that percentage of the normal dues used by the Lodge in the administration of the collective bargaining agreement. Upon presentation of a written deduction

authorization signed by an employee, the Employer shall deduct fair share fees from the payroll check of an Employee and remit them to the Lodge on the same payroll days that union dues are collected. This authorization shall terminate immediately following the City's receipt of such Employee's written notice to cancel the deduction of fees from such Employee's paycheck.

**ARTICLE 3**  
**NON-DISCRIMINATION POLICY**

Section 3.01. Consistent with the City's Affirmative Action Plan, the Fraternal Order of Police, Beaver Creek Lodge No. 160, hereby adopts the policy of providing equal opportunity to all individuals regardless of race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, marital status, amnesty, or status as a covered veteran in accordance with applicable federal, state and local laws. The Lodge agrees to initiate, maintain and promote this policy of non-discrimination while implementing and carrying out each Article of this Agreement.

**ARTICLE 4**  
**LODGE BUSINESS**

Section 4.01. Subject to the provisions of this Article 4 set forth below, the Lodge may select a maximum of one representative per watch and one alternate representative per watch to act in the absence of the representative when the selected representative of a watch has been assigned to another watch. These representatives and their alternates shall be certified to the City in writing by the Lodge. In other words, only one representative or alternate per watch shall be selected from the employees in all three bargaining units represented by the Lodge to represent such employees in connection with Lodge business.

Section 4.02. In cases of discharge or suspension, the selected representative or Employee shall be allowed reasonable time, without loss of pay, to investigate or consult with the City on all matters arising under the Collective Bargaining Agreement. Permission to investigate all such matters will not be unreasonably denied.

Section 4.03. The City shall provide the Lodge with a list of new civilians or sworn Employees immediately after the new police personnel are hired. The Lodge shall furnish the City with a current copy of its Constitution and By-Laws upon request of the City giving a specific reason thereof.

Section 4.04. Subject to the provisions of this Article 4 hereinafter set forth, the City shall make a reasonable effort to accommodate a member of the Lodge, as hereinafter specified, and provide reasonable schedule changes for such member as follows:

- A. Local Meetings of the Lodge: One designated, elected member of the Lodge will be paid for hours lost while attending a local, regularly scheduled meeting of the Lodge during his regularly scheduled working hours, not to exceed two (2) hours in any one calendar month.
- B. FOP District Meetings: One designated, elected officer of the Lodge will be paid for hours lost during his regularly scheduled work hours while attending a regularly scheduled district FOP meeting, not to exceed a total of four (4) hours and for not more than one (1) such meeting every three (3) months.

- C. State and National FOP Meetings: A maximum of five (5) working days pay per attendee shall be paid for hours lost while attending a regularly scheduled State or National FOP meeting provided, however, that not more than two (2) designated members of the Lodge may be absent as a result of any such meeting at any one time and; providing that said members shall not be permitted to receive payment for attending any state meeting more than twice a year, or in the alternative a national meeting more than once every two (2) years. Under no circumstances shall this paragraph be deemed to require the City to pay more than a total of ten (10) working days of pay for attendance at either a regularly scheduled State or National FOP meeting in any one (1) calendar year. The Lodge shall certify the allocation of said pay to the persons attending such meetings and the City shall be entitled to rely upon such certification.
- D. Contract Negotiations: All absences from duty incurred by Lodge Negotiators under this section for contract negotiations will be considered by the City as on duty time for said Negotiators.

Section 4.05. Except as provided above, and unless otherwise authorized by the Manager, all Lodge meetings shall be conducted by Employees outside of working hours and off City premises.

Section 4.06. The Lodge President shall be permitted to communicate during work hours with bargaining unit members regarding collective bargaining issues if the Division Commander determines that it will not interfere with normal Department operations.

## **ARTICLE 5**

### **LABOR-MANAGEMENT COMMITTEE**

Section 5.01. The City and the Lodge as representative of the Employees covered under this Agreement, shall jointly assist in establishing a single Labor-Management Committee which shall consist of six (6) members, half of whom shall be appointed by the City, and half of whom shall be appointed by the Lodge. Said members shall not be required to be members of the Lodge or employees covered under this Agreement to be eligible for appointment to the committee and to serve on the committee. Each member shall serve at the pleasure of the party appointing him and may be replaced from time to time. The Committee shall establish its own rules of procedure and shall meet from time to time to discuss, subject to the provisions of the Agreement, and to investigate problems of mutual concern. By mutual consent, the parties may have counsel present. At such meetings, there shall be full and forthright discussions and complete disclosures relevant to the issues by both parties on mutual subjects that would directly or indirectly affect the morale and command of the department members of the bargaining units. Meetings shall be held within a reasonable time after a request by either party, having regard for the seriousness of the issues involved. Nothing contained in this Article shall be construed or interpreted to be a waiver on the part of the City or the Lodge of any rights reserved to it under the provisions of this Agreement including Article VI (Management Rights) hereof.

## **ARTICLE 6**

### **MANAGEMENT RIGHTS**

Section 6.01. Unless expressly provided to the contrary by a specific provision of this Agreement, the City reserves and retains solely and exclusively all of its statutory (including those reserved to the City under the Act) and Common Law rights to manage the operation of the Department of Police of the City.

Section 6.02. The rights referred to in Paragraph 6.01 above shall include, but are not limited to, the right of the City to:

1. Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the City, standards of services, its overall budget, utilization of technology, and organizational structure;
2. Direct, supervise, evaluate, or hire employees;
3. Maintain and improve the efficiency and effectiveness of City operations;
4. Determine the overall methods, process, means, or personnel by which the City's operations are to be conducted;
5. Suspend, discipline, demote, or discharge for just cause, or lay off, transfer, assign, schedule, promote, or retain Employees;
6. Determine the adequacy of the work force;
7. Determine the overall mission of the City as a unit of government;
8. Effectively manage the work force;
9. Take actions to carry out the mission of the City;

The Employer is not required to bargain on subjects reserved to the Management and direction of the Governmental Unit except as it affects wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a Collective Bargaining Agreement. A public employee or exclusive representative may raise a legitimate complaint or file a grievance based on the Collective Bargaining Agreement.

## **ARTICLE 7**

### **GRIEVANCE PROCEDURE**

Section 7.01. There shall be an earnest, honest effort to settle disputes and controversies promptly. The procedures of this Article shall serve as the means of settling all grievances. Nothing contained in this Article shall be deemed to prevent an Employee or Employees, through a single designated spokesperson for such group of Employees, from adjusting a timely filed grievance without the intervention of the Lodge, as long as the adjustment is not inconsistent with the terms of this Agreement while it remains in full force and effect and as long as the Lodge has the opportunity to be present, through its duly designated representative, at the adjustment of such grievance.

In the event an Employee or Employees desire to present and adjust any grievance without the intervention of the Lodge, the word "Employee" or "designated spokesperson for a group of Employees" presenting and adjusting any such grievance shall be substituted for the word "Lodge" wherever such word appears in Steps 1 through 4 of the grievance procedure set forth in Section 7.03 below. The duly designated representative of the Lodge shall receive notice of any hearings scheduled on any such grievance and shall be afforded the opportunity to be present at any such hearing or meeting whereas the adjustment of the grievance takes place.

Section 7.02. A grievance is defined to be any dispute, controversy or difference between any Employee or the Lodge with the City on any issues with respect to or on account of:



- A. The meaning, interpretation or application of this Agreement;
- B. The reasonableness of any work rules adopted by the City;
- C. The existence of just cause in respect of the discipline or discharge of any Employee. Grievances involving the discipline or discharge of any Employee shall be submitted directly to the City Manager at Step 3 of this Article.
- D. The meaning, interpretation or application pertaining to Laws and Rules governing the relationship between the City and its Employees.

**Section 7.03. Steps of the Grievance Procedure:**

**Informal Step:** The aggrieved Employee or Employees will make an earnest and honest effort to settle the differences and disputes with their immediate supervisor or the Division Commander without filing a written grievance. In the event an agreement cannot be reached, subsequent steps shall be taken with respect to any grievance in accordance with the procedure described in this Article VII.

**Step 1:** If the grievance has not been resolved at the informal level, the Lodge shall present the grievance in writing to the Division Commander of the aggrieved Employee or group of employees. Within seven (7) working days of receipt of the written grievance, the Division Commander shall schedule a meeting to discuss the grievance with the grievant and/or a grievance representative. Within seven (7) working days of the meeting at Step 1, the Division Commander shall submit his written response to the grievance. If the Lodge is not satisfied with the written answer of the Division Commander, the grievance may be referred by the Lodge to the second step of the grievance procedure within seven (7) working days of the receipt of the Division Commander's written reply.

**Step 2:** If the grievance is not satisfactorily settled at Step 1, the Lodge may appeal the grievance to the Chief. The Chief shall, within seven (7) working days of receipt of the written grievance, schedule a meeting to discuss the grievance with the grievant and/or a grievance representative. Within seven (7) working days of the meeting at Step 2, the Chief shall submit his written response to the grievance. If the Lodge is not satisfied with the written answer of the Chief, the grievance may be referred by the Lodge to the third step of the grievance procedure within seven (7) working days of the receipt of the Chief's written reply.

**Step 3:** If the grievance is not satisfactorily resolved at Step 2, the Lodge may file a written appeal of the Chief's decision on the Grievance to the City Manager or, in the event the City Manager is absent, the City Manager's designated substitute (the term "Manager" as used in the Article VII collectively refers to the City Manager or his designated substitute). Said written appeal must be delivered to the Manager within seven (7) working days from the date that the Lodge receives the Chief's decision on the Grievance at Step 2.

The Manager shall, within seven (7) working days from the date the Lodge files the written appeal, meet with the Lodge representative to discuss and arrive at a decision on the Grievance. The meeting shall be scheduled by the Manager during normal working hours. The Manager shall, within ten (10) working days from the conclusion of the meeting, issue a decision in writing on the grievance and deliver the decision to the Lodge.

The Manager shall provide the name of the individual designated to serve in his absence as provided herein to the Lodge. Such designated individual shall hear the Lodge's appeal only in the absence of the Manager.

**Step 4:** If the Lodge is not satisfied with the decision issued in Step 3, and if the grievance is a matter other than a verbal or written reprimand, the Lodge may submit the grievance to binding arbitration by giving written notice thereof to the other party within thirty (30) calendar days following the date of the issuance of the final decision in Step 3 or Step 4 above.

Any grievance decision which the Lodge timely elects to submit to arbitration shall be submitted to an impartial party mutually selected and agreed upon by both the Lodge and the City within ten (10) working days of the date of the submission by the appealing party of the written election to submit the grievance to binding arbitration. In the event the City and the Lodge are unable to agree upon the identity of such an impartial arbitrator, the parties shall mutually request a panel of seven (7) names from the Federal Mediation and Conciliation Service, all of whom shall be members of the National Academy of Arbitrators. Upon receipt of the panel, the parties shall meet for the purpose of selecting one (1) individual from the panel to serve as the arbitrator to decide the grievance in accordance with provisions hereof. The selection shall be accomplished by a process of elimination. The determination of which party shall strike the first name from the list shall be determined by the flip of a coin. The party winning the coin toss shall have the option of making the first selection of the name to be eliminated from the panel, or requiring the other party to select the first name to be eliminated from the panel. The other party shall select the next name to be eliminated, with each party alternating thereafter until the single arbitrator is selected.

The decision of the arbitrator made in accordance with the provisions of this Step 4 shall be final, conclusive and binding upon the aggrieved Employee(s), the Lodge and the City.

The arbitrator shall have jurisdiction only to decide the Grievance based on the application and interpretation of the express terms or provisions of this Agreement. The arbitrator shall not have the power to add to, subtract from or otherwise modify any provision, term or condition of this Agreement. All decisions of the arbitrator consistent with the jurisdiction power and authority as described in this Step 4 and all pre-hearing settlements reached by the Lodge and the City shall be final, conclusive and binding on the City, the Lodge and the aggrieved Employee(s).

The fee of the arbitrator and the fees charged by the Federal Mediation and Conciliation Service in connection with any arbitration submitted to the said association shall be shared equally between the Lodge and the City, regardless of the decision or outcome of the arbitration. All costs or fees of any kind incurred by each party in presenting their respective cases to the arbitrator shall be borne by the party incurring such costs.

#### **Section 7.04. General Provisions**

A. Any grievance involving any matter relating to a specific event or personnel action must be initiated within ten (10) working days after the Employee has knowledge of the facts which give rise to the grievance or with reasonable diligence should have acquired such knowledge. Grievances involving matters not relating to a specific incident or personnel action must be initiated within a reasonable period of time. The grievance shall be prepared in detail on forms acceptable to both the Lodge and Management specifying the act or acts complained of, the provision(s) or terms of the Agreement alleged to have been violated and the remedy sought, and shall be dated and signed by the Lodge on behalf of the aggrieved Employee or group of Employees.

B. Grievances are to be filed at Step 1, unless the occurrence that gave rise to the grievance originated at the Chief's level (Step 2) or the City Manager's level (Step 3). If the occurrence that gave rise to the grievance originated at Step 2 or Step 3, the grievant may initiate the grievance at that step.

C. Any grievance not initially taken to the next step, or answered within the time limits specified herein will be considered settled on the basis of the last answer by the City if the Lodge does not move it to the next step within the time limit specified, or on the basis of the last demand of the Lodge as the duly appointed bargaining representative of the aggrieved Employee or Employees if the City fails to give its answer within the applicable time limit. The City and the Lodge may mutually agree in writing to extend the time limits at any step.

## **ARTICLE 8** **DISCIPLINE**

Section 8.01. All disciplinary action shall be in accordance with the existing Personnel Rules and Regulations and Departmental Rules and Regulations, as amended from time to time, and that are not in conflict with this Agreement.

### Section 8.02. Investigation of Misconduct:

- A. An Employee may be initially questioned by a supervisor or management during or practically contemporaneous to an event in question without prior notice or representation when the purpose of such questioning is to review circumstances to determine if an investigation should be undertaken.
- B. An Employee who is alleged to have committed a minor violation relating to his/her performance may be questioned by their supervisor or management without prior notice or representation prior to oral counseling. Such counseling will not be an official reprimand of record.
- C. Management may conduct investigations of alleged misconduct by an Employee and require an Employee to submit written reports relative to investigation.
  - 1. The report may be used by Management in taking action and in defending such action with respect to discharge or discipline of the Employee.
  - 2. Failure by an Employee to complete the report may result in disciplinary action.
  - 3. If any report shows or tends to show that the Employee submitting the report has committed a crime, the report may not be voluntarily made available by Management for use at any stage (grand jury or trial) in any criminal proceeding against the Employee.
  - 4. An Employee who is under criminal investigation shall be informed that the investigation is criminal in nature, as opposed to administrative, and afforded the applicable Constitutional considerations guaranteed by law.
- D. In matters of discipline involving policy violations or infractions that would potentially result in discipline up to and including a written reprimand, all as determined by the Chief of Police, the Chief, prior to referring any preliminary report findings for a formal Internal Affairs investigation and with notice to the Lodge President or designee, may afford the Employee the opportunity to waive any formal investigation, fourteen (14) day notice of investigation status, pre-disciplinary hearing notice of formal charges, and a pre-disciplinary hearing. Should the Employee choose to exercise the waiver option, discipline as determined by the Chief will be administered as soon as practical. The Employee's

exercising of the waiver will constitute a final resolution of the matter, and the discipline administered (which may be no greater than a written reprimand) can be used for purposes of progressive discipline as outlined in this Agreement.

**Section 8.03. Employee Rights:**

- A. When an Employee, suspected of misconduct, is to be interviewed as part of an administrative investigation:
  - 1. The Employee shall be advised of the allegation(s) or the subject of the investigation in writing;
  - 2. Notification of not less than twenty-four (24) hours shall be given to the Employee;
  - 3. The Employee shall receive formal notice of the right to be represented by a grievance representative or attorney-at-law; and
  - 4. Upon request by an Employee (or their grievance representative or attorney) and in accordance with R.C. 149.43, the Employee shall be provided copies of all public records compiled during the course of the investigation. If such request is made prior to an Employee's administrative interview, the Employee (and their representative and/or attorney) shall be afforded a reasonable time in which to review all such records prior to questioning, but in no event shall the request result in a postponement or delay of the scheduled interview.
- B. Once an Employee is officially notified by the Department of an internal investigation, the Department shall provide the Employee with written update on the status of the investigation every fourteen (14) days until either charges are filed or the investigation is closed.
- C. In any disciplinary hearing or investigation, the entire session shall be recorded on an audio recording device, unless such right is waived in writing by the Employee subject to discipline. Waiver by the Employee of such right shall not serve to prevent the City from recording said disciplinary hearing or investigation.
- D. Employees shall be afforded the right to discovery prior to a pre-disciplinary hearing subject to Section 8.05.
- E. Management shall afford an Employee the opportunity to offer mitigation before disciplinary action is taken.

**Section 8.04. Formal Charges and Specifications:**

- A. A formal charge of misconduct shall be in written form stating the alleged violations against an Employee. When an Employee is charged with misconduct which may result in an oral or written reprimand of record, suspension, demotion or dismissal, he/she shall be given a written notice describing the alleged misconduct stating the charges and specifications and informing him/her of the right to be represented at the pre-disciplinary hearing. Said notice shall be provided not less than seven (7) days prior to the scheduled pre-disciplinary hearing. The employee has the right to waive the seven (7) days notice.

- B. An oral reprimand or written reprimand is an official reprimand of record and shall be noted as such by a supervisor and placed in the employee's personnel file.
- C. After one (1) year from the date of issue, an oral reprimand or written reprimand shall be removed from the Employee's file.
- D. The principles of progressive disciplinary action will be followed with respect to chargeable minor offenses such as, but not necessarily limited to, tardiness and excessive absenteeism. The progression, where appropriate, will at least include an oral reprimand, a written reprimand, and a suspension for the same or related offense prior to dismissal. No prior disciplinary action shall be used against an Employee for purposes of progression after one (1) year from the date of violation.
- E. Unless there is pending litigation, and/or the time within which to file an appeal has not expired, and upon the written request of the Employee to the Department, all records pertaining to suspension shall be removed from all of the Employee's personnel files after two (2) years from the date of serving the last day of suspension and shall not be considered in subsequent determinations of discipline. If there is litigation, records shall be removed from the personnel files two years after final resolution.

**Section 8.05. Discovery:** Pre-disciplinary hearings shall be scheduled to allow reasonable time for Discovery. A request for Discovery shall be made in writing after written notification of the pre-disciplinary hearing has been issued but no less than five (5) work days before the pre-disciplinary hearing. A Discovery request can be made by either Management or the Lodge. Discovery shall be provided in a timely manner prior to the pre-disciplinary hearing and entitles either party to the following information:

- A. The names of all known individuals who witnessed the incident(s) giving rise to the charges.
- B. Copies of all reports, transcripts of interviews, written statements, recordings, photographs and any other documentary evidence regarding the incident(s) giving rise to the charges. Supervisory findings and recommendations shall not be subject to Discovery unless Management intends to introduce such report at a pre-disciplinary hearing. Supervisory investigative reports shall be subject to Discovery. The testimony of anonymous witnesses shall not be presented at the hearing.
- C. Either party also has the right to inspect any physical evidence or reproductions thereof regarding the incident(s) giving rise to the charges.

Discovery rights extend to Management or the Employee's representative. Should any new evidence develop during the hearing, a continuance of up to ten (10) working days shall be granted if requested by either party.

**Section 8.06. Disciplinary Time Limits:** Once an Employee is officially notified by the Department of an investigation against him/her, the Department will have sixty (60) calendar days to serve charges or initiate disciplinary action.

Once charges have been served, Management shall have thirty (30) calendar days to convene a hearing and, upon conclusion of the hearing, five (5) working days to issue the findings to the Employee. The Chief of Police or Acting Chief will be the hearing officer involving all predisciplinary hearings.

If the time limit expires and formal charges are not filed, or no disciplinary action is imposed, or, the Employee has not had a Departmental Hearing, no disciplinary action will be taken.

Time limits can be extended by mutual agreement of the Lodge and Management. If criminal charges have been filed against an Employee, the time limit will not be in effect until all criminal proceedings are complete.

**Section 8.07. Suspension From Duty:** If an Employee is criminally charged and/or indicted based upon alleged conduct of the Employee that arose out of the performance of his/her official duties, and/or the exercise of the authority granted the Employee under law, and the alleged conduct is such that it would not impair the Employee's ability to perform an assignment within the Department, then the Employee may be assigned to an appropriate position pending the outcome of any criminal proceedings.

In the event the Employee is conditionally suspended as the result of an indictment or criminal charge, the Employee shall continue to participate in all benefits during the pendency of the case.

In the event that discipline is rendered against an Employee and results in suspension of three (3) or less days, the Employee shall have the option of forfeiting up to forty-eight (48) hours of vacation in a twelve (12) month period. If the Employee chooses to forfeit vacation, the forfeiture shall be one (1) hour of vacation for each hour of the suspension. The forfeiture of vacation will constitute discipline of record, shall be accordingly noted in the Employee's personnel file, and shall constitute the final resolution of the departmental charges. No loss of seniority shall occur should the Employee choose this option.

**Section 8.08.** No polygraph shall be given for investigation purposes unless requested by the Employee to be used as an investigative tool only.

## **ARTICLE 9**

### **LAYOFFS AND PROMOTIONS**

**Section 9.01. Probation:** Newly hired or appointed Employees are required to successfully complete a probationary period of:

- A. Twelve (12) months for all civilian employees.
- B. Twelve (12) months if O.P.O.T.A. certified at the time of appointment.
- C. Twelve (12) months from O.P.O.T.A. certification.

The probationary period can be extended another ninety (90) days by mutual agreement of the Chief of Police and the employee.

Upon successful completion of the probationary period, the employee's seniority date shall be computed from the date of initial appointment.

**Section 9.02. Layoffs:** Layoffs and recalls shall be governed by applicable Personnel Rules and Regulations for the City then in effect, as may be amended from time to time. Any layoff of full time Employees will be based on seniority.

Section 9.03. Promotions: All promotions and selection of Employees to fill the vacant or newly created positions shall be determined by selecting the most qualified applicant for the job. If Employees are equally qualified, then seniority shall prevail.

If an Employee is promoted and does not meet promotional probationary standards said Employee shall be reinstated to the rank previously held.

Section 9.04. Transfers: Management has the right to make the necessary transfers when making job assignments. When practical, management will give strong consideration to seniority when making transfers. Transfers of Employees shall not be unjust or capricious.

## **ARTICLE 10**

### **GENERAL PERSONNEL POLICIES**

Section 10.01. Personnel Rules and Regulations: All of the general personnel policies outlined in the Personnel Rules and Regulations for the City in effect as of the date hereon, as amended from time to time, that are not in conflict with this Agreement, including but not limited to hours of work, in-service training, Employee appraisals, Employee personnel records, travel and conference expenses, tuition reimbursement program, Employee organizations, departmental rules and regulations, attendance, outside employment, National Guard and Reserve service, use of City facilities and equipment, personal appearance, soliciting by Employees, political activities, and equal opportunity shall be observed by all personnel.

Section 10.02. Personnel File: An Employee shall be allowed to review the contents of his/her personnel file at all reasonable times upon written request. Any unsubstantiated allegations of misconduct shall not be contained in the Employee's personnel files. A memorandum explaining any document in his/her file may be added by the respective Employee.

If a request is made to inspect and/or copy records within an Employee's personnel files by an outside source, Management shall provide written notification to the Employee of the request as soon as practicable.

Employee personnel files include all personnel files maintained in the Police Department including, but not limited to, the Chief's office and Internal Affairs, and those personnel files located in the Human Resource Manager's office.

Section 10.03. Performance Evaluations: Signature of Employees shall be required on performance evaluations, and such signing will only mean the Employee has read the evaluation. No subsequent evaluation comments may be made on record copies once signed by the Employee.

If an Employee is not satisfied with his/her performance evaluation rating, he/she may schedule a meeting with his/her supervisor's superior to discuss the rating.

If the results of this meeting are not acceptable to the Employee, he/she must document his/her rationale, for appeal, in a report directed to his/her Division Commander. If the above options do not result in an outcome acceptable to the Employee, the appeal is subject to the grievance procedure only when the performance evaluation is considered to be conducted in an arbitrary and/or a capricious manner.

**ARTICLE 11**  
**HOLIDAYS**

Section 11.01. Only full-time Employees are eligible for holidays with full pay.

A. Holidays for Employees are provided as follows:

New Year's Day	Labor Day
Martin Luther King Jr. Day	Thanksgiving Day
President's Day	Friday following Thanksgiving Day
Memorial Day	Christmas Eve Day
Independence Day	Christmas Day

B. The following provisions shall be applied in administering the holiday provisions:

1. If a holiday falls on a Saturday, the preceding Friday will be observed as a holiday, and if a holiday falls on a Sunday, the following Monday shall be observed as a holiday unless otherwise designated by the Manager.
2. Any Employee may be required by the City to work on a holiday on which the holiday pay is applicable. Employees required to work on a holiday, who are otherwise eligible for holiday pay, shall receive such holiday pay and shall also receive overtime pay computed at the rate of one and one half (1 ½) times 1/2080th of the Employee's base annual pay rate for all hours worked on such holiday. Employees who are scheduled to work on a holiday and who fail to report for and perform such work shall forfeit their eligibility for regular and holiday pay for the holiday, unless such Employee is otherwise excused.
3. Each Employee must work on the regularly scheduled work day or work shift immediately before and after the holiday to be entitled to receive holiday benefits unless the Employee is otherwise excused.
4. An Employee who is assigned to a rotation of hours and days off duty schedule shall receive:
  - a. For each holiday falling on a regular scheduled work day, an amount of premium holiday pay computed by one and one-half (1½) times the Employees base rate for each hour worked; or
  - b. For each holiday falling on a regular scheduled day off, eight (8) hours of standard holiday pay at the Employee's base hourly rate.

Section 11.02. An Employee upon written notice to the City may have their holiday pay deferred until the last pay period in November of said year. The Employee may make such an option only one time per year.



**ARTICLE 12**  
**VACATION LEAVE**

Section 12.01. Employees covered by this Agreement shall accrue vacation in accordance with the following plan:

<u>LENGTH OF SERVICE</u>	<u>ANNUAL DAYS VACATION</u>
Date of hire through five (5) complete years of service.	80 hours
Six (6) through ten (10) complete years of service.	120 hours
Eleven (11) through fifteen (15) complete years of service.	160 hours
Sixteen (16) through nineteen (19) complete years of service	180 hours
Twenty (20) years of complete service and more.	200 hours

Section 12.02. In the event a holiday occurs during the period when an Employee is on vacation, such holiday shall not be counted as part of the Employee's vacation.

Section 12.03. Unused vacation pay shall be paid as terminal pay in the event an Employee has completed six (6) months continuous service and is subsequently separated from employment.

Section 12.04. Requests for vacation must be submitted thirty (30) days in advance. If two or more Employees, working the same shift, request vacation for the same period, the Employee with the most seniority by grade shall be given preference.

Section 12.05. Employees who request non-scheduled vacations for a period of time other than that covered by Section 12.04 above must request same no less than twenty-four (24) hours in advance of taking such leave for approval by the supervisor unless otherwise approved by the Chief or his designee.

Section 12.06. Employees on leave of absence, without pay, or layoff shall not accrue vacation during the period of such absence.

Section 12.07. No Employee shall have the right to take any vacation time until such Employee has vacation leave.

Section 12.08. Vacation leave may accrue to a maximum of the allowable two (2) years accumulation. In order to receive vacation pay, time off for such vacation must be taken.

Section 12.09. Reasonable requests for vacation will be denied only if it substantially interferes with Police operations. The Department shall provide the reason for denial.

Section 12.10. Eligible Employees with prior governmental service within the State of Ohio who are employed by the City of Beavercreek shall be entitled to have their prior service counted as service with the City of Beavercreek for the purposes of computing the amount of their vacation leave. This provision

is in accordance with the Ohio Revised Code. The anniversary date of employment for the purpose of computing the amount of his/her vacation leave, unless deferred pursuant to the appropriate law, ordinance, or regulation is the anniversary date of such prior service. It is the obligation of Employees eligible for such credit for prior service to bring this matter to the attention of the Manager and to provide verification of such prior governmental service.

### **ARTICLE 13** **SICK LEAVE**

Section 13.01. Sick leave is to ensure the Employee against loss due to disabling illness or off-the-job injury. Proof of such illness or injury rests upon the Employee. Sick leave is not intended as time earned for vacation purposes. Full time Employees of the City shall accrue sick leave and be eligible to use sick leave accrual according to the following provisions:

- A. Each full-time Employee shall accrue sick leave at the rate of .05770 per hour for each regularly scheduled work hour. Each Employee's normal average sick leave shall be approximately one and a quarter (1¼) days per month. Each Employee's normal total annual sick leave accrual shall average fifteen (15) days (.05770 times 2080 - the average scheduled hours an Employee works during a given calendar year). Overtime hours shall not be used when computing an Employee's sick leave accrual.

#### **Rate of Accrual for New Hires**

Each regular full-time employee hired after 1/1/2014 shall accrue sick leave at the rate of .04615 for each regularly scheduled work hour. Each full-time employee's normal average monthly sick leave accrual is approximately one (1) day. Each full-time employee's normal total annual sick leave accrual shall not exceed twelve (12) days (.04615 times 2080 hours). Overtime hours shall not be used when computing an Employee's sick leave accrual.

- B. Sick leave accrual on leave of absence will be as follows:
1. An Employee will accrue sick leave at the normal rate during any leave with pay (including approved military leave for reserve or guard two (2) week summer camp).
  2. When an Employee does not return to work but retires from service, any sick leave accumulation may be converted to regular pay in accordance with Section 13.07, paragraph G of this agreement.
  3. An Employee will not accrue sick leave while suspended, AWOL or on other leave without pay.
- C. Restoring of sick leave. If a former Employee has been re-employed within one (1) year from date of resignation, previous unused sick leave will be restored to the records.
- D. Regular full-time Employees with less than a complete month of service will accrue sick leave on a pro-rated basis per the schedule in paragraph "A".
- E. The City may require any Employee requesting sick leave to furnish a statement from his/her attending physician. The City shall also have the right to verify the report of the attending physician concerning the illness of any Employee and to require the Employee to be examined by a physician appointed by the City to determine the nature and extent of the illness.

Section 13.02. Eligible Employees with prior governmental service within the State of Ohio who are employed by the City of Beavercreek shall be entitled to have their unused and uncompensated sick leave accrual transferred to the City of Beavercreek for the purposes of computing the amount of their sick leave accrual. Prior government service sick leave accrual credited for sick leave shall not be convertible to vacation leave under Section 13.07. It is the obligation of Employees eligible for such credit for prior service to bring this matter to the attention of the Manager and to provide verification of such prior governmental service.

Section 13.03. **Granting Sick Leave:**

- A. Sick leave may be granted an Employee for the following reasons:
1. Personal illness, injury or disability of the Employee.
  2. Illness or injury in the immediate family which ordinarily consists of the spouse and children of the Employee who may require the Employee's personal care and attendance. Time limits depend on each individual set of circumstances. The following guidelines are to be considered in making judgment on individual cases.
    - a. An Employee may use one (1) day sick leave to transport a member of the immediate family to or from the hospital and/or doctor, or to make arrangements for the care of the ill or injured person, provided no other person is available.
    - b. An Employee may use one (1) day sick leave on the day surgery is to be performed on the spouse and/or children if such occurs on a working day.
    - c. An Employee may use up to two (2) calendar weeks (up to twelve (12) working days, based on work shift) of sick leave upon the birth of an employee's child, unrelated to personal illness.
    - d. Sick leave will not be used by the Employee for convalescence of immediate family.
    - e. Sick leave for these purposes may not be granted for more than two (2) days per calendar year on days immediately preceding or immediately following the Employee's regularly scheduled day off, holiday or vacation. Immediate family is defined as relatives living in the same household as the Employee.
- B. If an Employee requests Sick Leave pay for the time spent outside of Greene or Montgomery Counties, or the county where the Employee resides if different, a doctor's certificate of need and nature of illness will be required and submitted to the Chief.
- C. Employees who are absent due to the use of intoxicants, mood modifiers, or drug abuse are not eligible for sick leave pay, unless in an authorized rehabilitation program with prior knowledge of such between the Manager and the Employee.
- D. Employees becoming ill while working can be sent home by the supervisor. Sick leave will be charged on the basis of actual time absent from work.

- E. Upon transfer from one division or department to another, unused sick leave days will continue to be available for the transferred Employee's use.

**Section 13.04. Reporting Procedure:**

A. Employee's responsibility.

1. An employee who is ill or injured and unable to work must report the fact to their department office on duty supervisor no later than sixty (60) minutes before the starting time on the first day of absence from scheduled duty. A call will be made to the department office on each succeeding day of absence unless specifically excused by the department head or other arrangements are authorized. An absent employee shall also call or text in well at least twelve (12) hours before their next scheduled duty.
2. Employees who are not at home when a supervisor visits will comply with the request to call the supervisor immediately.
3. Unreported and/or unapproved absences will be without pay.
4. Failure to comply with any of the above may result in a denial of sick leave and/or disciplinary action.
5. The City may withhold benefit payment to any Employee who is guilty of submitting a false claim or abusing sick leave privileges. Disciplinary action may be taken for such false claim up to and including discharge.
6. Employees at their residence or other place of convalescence may leave their residence while on sick leave as is necessary.

B. Department responsibilities.

1. All records of sick leave used and accumulated for each Employee must be recorded and filed.
2. Five (5) separate absences for illness during any twelve (12) month period may indicate a pattern of excessive absenteeism and Employees should be counseled that good attendance is a requirement, not an option. Where an excessive absentee pattern exists an Employee may be required, by the Chief to acquire a doctor's certificate, and disciplinary action may be warranted.
3. Control of sick leave abuse will be the responsibility of the supervisor, who should judge such case of sick leave on its individual merit. Whenever abuse of sick leave is found disciplinary procedures are to be used.
4. The Chief may require, in accordance with and as limited by applicable law, an examination of an Employee at any time to determine if the Employee is capable of job performance. Employees determined to be incapable may be transferred, retired on disability, or removed from City service depending upon the medical provider's recommendation.

Section 13.05. During any twelve (12) month rotating period that an Employee submits a valid doctor's statement, that particular sick leave incident shall not be counted towards discipline. Only one (1) incident in any twelve (12) month rotating period shall be eliminated.

Section 13.06. **Returning to Work:** An Employee absent from work for one (1) calendar week or more due to illness, absent from work due to accident or injury or off the active working payroll of the City for any reason for over four (4) calendar weeks may be required to submit a statement from their physician prior to his/her return to the active working payroll of the City certifying his/her physical ability to fulfill the regular work duties and the right to have the Employee examined by a physician appointed by the City for such purpose.

Section 13.07. **Conversion of Sick Leave:** In any one calendar year, sick leave may be converted to vacation as provided below:

- A. An Employee who has sixty-six (66) or more sick leave days may convert up to fifteen (15) of them to vacation days on the basis of three (3) sick leave days for one (1) vacation day, provided a balance of fifty-one (51) sick leave days remain.
- B. An Employee who has ninety-two (92) or more sick leave days may convert up to ten (10) of them to vacation days on the basis of two (2) sick leave days for one (1) vacation day, provided a balance of ninety (90) sick leave days remain. If such conversion results in less than five (5) "new" vacation days additional sick leave days may be converted on the basis of three (3) sick leave days for one (1) vacation day. The total number of vacation days obtained from such conversion cannot exceed five (5) days.
- C. Conversions will be made during the first part of January each year in order to facilitate vacation scheduling. Conversion may be made at some other time during the year with the approval of the Chief.
- D. Conversion privileges may be used, provided that the total number of vacation days allowed is not exceeded.
- E. At retirement, an Employee may convert any sick leave days to regular pay. This conversion will be on the basis of two (2) sick leave days for one (1) of regular pay. Retirement means an Employee is eligible by age and/or service requirements of the Public Employees Retirement System or the Police and Fire Pension Fund to receive compensatory benefit at the time of his/her separation from City employment.

**Retirement Conversion for New Hires**

Regular full-time employees hired after 1/1/2014 are eligible to convert sick leave pay to regular pay at the rate of three (3) sick leave days for one (1) of regular pay with a maximum payout of 1,040 hours.

- F. If an Employee who would otherwise be eligible for the retirement benefits dies while still employed, the benefits under Paragraph "G" will be paid to the deceased Employee's estate.
- G. Such conversion days off will be scheduled by the Chief to assure efficient operation of the Department.

**ARTICLE 14**  
**LEAVES OF ABSENCE**

Section 14.01. Any Employee desiring a leave of absence must apply in writing to his/her immediate supervisor at the earliest possible date prior to the requested starting date of the leave. Employees requesting military, personal, jury duty or family and medical leaves of absence shall be required, under normal circumstances to submit a request for the leave no later than thirty (30) days prior to the requested starting date of the leave. (This requirement may be waived if unusual circumstances prevail.) Other leaves of absence such as sick leave, injury leave, bereavement leave, and medical leave will usually require processing after the Employee has already taken time off the job. Time off work due to the following reasons does not require leave request: training required by the City, sickness of non-job related injury not requiring the Employee to be off work more than fourteen (14) calendar days; holidays and personal absence days; or bereavement leave approved under the provision of the Bereavement Leave policy. Temporary, regular part-time Employees and provisional Employees are not eligible for any type of leave of absence. Employees on an initial probationary period will not normally be eligible for any type of leave of absence unless the Chief chooses to waive this policy and approve the leave for which the Employee has applied.

Section 14.02. **Bereavement Leave:**

- A. Each full-time Employee of the City shall be given leave of absence with full pay up to three (3) scheduled work days in the event of the death of the Employee's father, mother, father-in-law, mother-in-law, spouse, child, an unborn child past the first trimester, sister, brother, step-child, half-sister or brother, grandparents of Employee or Employee's spouse, son-in-law, daughter-in-law, or grandchild, or any other persons listed in City policy for which bereavement leave is provided. Approved uses of bereavement leave shall be limited to: 1) the day of the relative's death; 2) a day for making arrangements or attending a viewing; and 3) the day of the relative's funeral or memorial service. It is understood that this provision is not to be interpreted as an automatic three (3) days off with pay. The employee may be required to provide documentation justifying each usage of leave
- B. With approval of the Chief and City Manager, two additional days of bereavement leave may be provided to an employee to allow for travel associated with permitted uses of leave on the employee's scheduled work day.
- C. The bereavement leave described above shall not be charged against any type of employee accrued leave.

Section 14.03. **Military Leave:** Any full-time Employee who enlists or is inducted into the United States Armed Forces, National Guard or any branch of the reserve shall be granted, upon request, a military leave of absence. The following provisions shall be applicable to all Employees granted a military leave of absence:

- A. The Employee requesting a military leave of absence must do so in writing and submit the request to his department head for processing.
- B. An application for military leave of absence shall not be granted for more than one voluntary enlistment unless additional active duty of the Employee on military leave is requested and is at the convenience of the Federal Government.

- C. All employees who are members of the Ohio Organized Militia, or members of other reserve components of the Armed Forces of the United States including the Ohio National Guard are entitled to leave of absence without loss of pay for their respective duties for such time as they are in the military service on field training or active duty for a period not to exceed a total of one hundred seventy-six (176) hours in one (1) federal fiscal year.
1. Employees are required to submit to the Employer an order or statement from the appropriate military commander of evidence of such duty. There is no requirement that the service be in one (1) continuous period of time.
  2. The maximum number of hours for which payment will be made in any one (1) federal fiscal year under this provision is one hundred seventy-six (176) hours.
  3. Employees who are members of those military components listed above will be granted emergency leave for mob, riot, flood, civil defense, or similar duties when so ordered by the Governor to assist civil authorities. Such leave will be without pay if it exceeds authorized military leave for the year. The leave will cover the official period of the emergency and the time necessary to return to work.
  4. Extended military leave and the payment of such leave will be granted in accordance with Ohio law.
- D. Employees enlisted or inducted into the regular military service must request return to employment with the City of Beavercreek, in writing, within ninety (90) calendar days after receiving an honorable discharge or separation from the United States Armed Forces. Employees serving on active duty in the reserves or the guard must request, in writing, return to employment within the City of Beavercreek within thirty-one (31) days after receiving an honorable discharge or separation from active duty in the reserves or guard. Upon return to City service, the Employee will be granted full seniority for his/her entire enlistment time the same as if such Employee had worked continuously with the City during the enlistment. Any Employee who enters the military prior to completing the required probationary period shall be required, unless otherwise waived by the Manager, to complete the remaining time under his/her former probationary status. Such Employee shall be placed, upon his/her return to work, at the present pay rate provided to probationary Employees currently filling the same classifications. Upon completion of the probationary period said Employee shall be eligible for the regular step increase based upon the seniority he/she accrues after his/her return from military service.
- E. Each Employee returning from military service shall be placed in his/her former job, if in existence, or if it is not in existence, he/she shall be offered a substantially equivalent position as his/her seniority, skill, ability, and physical fitness warrants subject to the provisions of the University Military Training Act, as amended, where applicable.
- F. The City reserves the right to require an Employee returning from military leave of absence to take a physical examination conducted by a physician to determine the Employee's ability to return to his/her former position.
- G. Failure of an Employee who has been granted a military leave of absence to request a reinstatement to his/her former position within the required time limit (90 calendar day limitation for the regular service and 31 calendar day limitation for reserve and guard service) after receiving an honorable discharge from the military service shall cause the Employee to forfeit all reinstatement rights.

**Section 14.04. Medical Leave:** Full-time Employees may be granted unpaid medical leave of absence in accordance with the City's Family and Medical Leave Act Policy and the following provisions:

- A. A request for medical leave of absence under this provision is not required for any illness or off-the-job injury of less than fourteen (14) calendar days' duration.
- B. An Employee's eligibility for a medical leave of absence shall be determined in conjunction with Article XIII of this Agreement concerning the provisions of sick leave benefits. Any Employee who has applied for and been denied an injury leave of absence, or whose supplemental workers' compensation benefits have been exhausted shall be eligible to use his/her accrued sick leave in accordance with the sick leave provisions until the Employee returns to work or such accrued sick leave is exhausted. The Manager shall require the Employee applying for medical leave of absence to provide satisfactory medical evidence from a licensed physician verifying the Employee's physical disability.
- C. A medical leave of absence may be granted up to a maximum of one (1) year for any one illness or injury.
- D. Any Employee returning from a medical leave of absence shall be required, prior to returning to work, to submit a doctor's certificate verifying his/her ability to perform his/her full regular job function. The Manager reserves the right to require an Employee to remain on medical leave of absence until such time as the Employee is fully released to perform all of his/her regular job functions.
- E. An Employee returning to work following a medical leave of absence shall be placed on his/her former job, if available, or if not available, he/she shall be offered, if available, a substantially equivalent vacant position as his/her seniority, skill, ability and physical fitness warrant.
- F. While on medical leave of absence the Employee's seniority will continue to accumulate.
- G. While on medical leave of absence, the City shall maintain the Employee's applicable fringe benefits, as follows:
  - 1. Employee will accumulate paid leave benefits while in paid status.
  - 2. The City will continue its contribution toward health insurance premiums so long as the employee is in paid status, or on approved FMLA leave.

**Section 14.05. Family and Medical Leave:** The City and the Lodge agree to comply with all requirements and obligations of the federal Family and Medical Leave Act of 1993 ("FMLA") and as the same may be amended.

**Section 14.06. Jury Duty Leave:**

- A. Full-time Employees may be eligible to be granted a jury duty leave of absence in accordance with the following provisions:
  - 1. The Employee shall submit to the Chief the court provided card verifying his/her required attendance and participation for jury duty.



2. The City shall supplement the jury duty pay received by the Employee by providing the Employee his/her full base wages for the period of jury duty leave less the amount of jury duty pay received by the Employee, or the City may pay the Employee his/her full base wages and require the Employee to submit to the City the full amount of money for his/her jury duty.
3. While on approved jury duty leave, the Employee's fringe benefits shall be maintained by the City.
4. While on approved jury duty leave, the Employee shall continue to accrue seniority and shall automatically return to his/her former position upon expiration of the jury duty leave.

**Section 14.07. Personal Leave:**

- A. Any full-time Employee is eligible to be granted a personal leave of absence in accordance with the following provisions:
  1. Upon approval by the Chief, a personal leave of absence may be granted to an Employee up to a maximum of one (1) month.
  2. While on an approved leave of absence the Employee's seniority will continue to accrue and the City shall maintain the Employee's applicable fringe benefits.
  3. An Employee returning from a personal leave of absence shall be placed on his/her former job, if in existence, or if not in existence, he/she shall be offered, if available, a substantially equivalent vacant position as his/her seniority, skill, ability and physical fitness warrant.
  4. While on personal leave of absence, the Employee shall receive no wages nor shall he/she be eligible to apply any unused sick leave.
  5. The Chief maintains the right to require an Employee returning from a personal leave of absence to take a physical examination conducted by a City approved physician.
  6. No personal leave of absence shall be granted for purposes of pursuing other employment and, if an Employee on a personal leave of absence acquires other employment while on such leave, the Employee may automatically be dismissed from the City service. This restriction may be waived only upon prior approval of the Chief.

**Section 14.08. Workers' Compensation:**

- A. All Employees, both full-time and part-time, are covered under the benefits provided by the Bureau of Workers' Compensation. Workers' Compensation provides both medical payments and lost time payments to Employees who incur "on-the-job" injuries. The determination of valid claims and eligibility for their benefits are determined by the Bureau of Workers' Compensation.
- B. It is the responsibility of the Employee to report immediately to his/her supervisor any injury incurred on the job no matter how minor the injury may seem to the Employee. All accidents regardless of whether or not an injury is incurred, shall be reported immediately by the Employee(s) involved to the Employee's supervisor. It is the responsibility of the injured

Employee's supervisor to initiate and oversee the completion of an Injury Report Form within twenty-four (24) hours after the injury was incurred and to submit the completed report promptly to the Manager. If an Employee or the Employee's supervisor is uncertain as to whether or not an injury is considered to be work related, an Injury Report shall be completed and submitted to the Manager for review and determination.

- C. Workers' Compensation - When the Employee is unable to work as a result of an in-the-line-of-duty injury, the Employee will cause to be filed a claim for Workers' Compensation benefits. Seven (7) days prior to filing such claim, the Employee will notify the City Manager.

**Section 14.09. Injury Leave:**

- A. Extent of Benefits - Full-time Employees injured in the line of duty and not resulting from willful and wanton disregard, or total disregard for personal safety on the part of the Employee, will receive injury leave pay for a maximum of one (1) year (2080 work hours) for each new and separate injury, subject to the conditions set forth in this Section.

When injury leave is exhausted, the Employee may elect to use accumulated sick leave and/or other accrued leave pending the receipt of Workers' Compensation Benefits.

In extreme cases, additional injury leave may be granted at the discretion of the City Manager, considering the facts of the particular case.

The initial approval of any application for paid injury leave shall not exceed one (1) month (160 work hours), with subsequent extensions at the discretion of the City Manager, considering the facts of the particular case.

In circumstances where the nature of the injury allows, the City may assign limited work duties to the Employees.

Where disability caused by an in-the-line-of-duty injury continues for a period of twelve (12) months, and all leave is exhausted, the Employee shall apply for disability retirement.

- B. Reporting - All on-duty injuries must be reported to the Chief of Police within twenty-four (24) hours. A written injury report will be prepared, signed by the Employee, if able, and the Chief of Police, and forwarded to the office of the Human Resources Manager. This statement shall show conclusively that the injury was sustained in the line-of-duty, and if not reported within the twenty-four (24) hours period, the City reserves the option as to whether or not injury leave will be allowed.
- C. To the extent that an employee is charged with Sick Leave for a period in which he is entitled to injury leave, the sick leave will be reinstated to this accrual.
- D. Payment - The Employee will receive his/her regular salary paid by the City. Occupational Injury Leave payments are fully paid by the City at the employee's base hourly rate and are in lieu of Workers' Compensation temporary total disability payments. An employee who applies for injury leave will apply to BWC for medical benefits only and not lost income benefits.
- E. Evidence - The City may require, at any time, the Employee to furnish medical evidence and/or submit to a medical examination by a City designated physician at the City's expense, to

determine whether the alleged injury is a new and separate injury or an aggravation of a former in-the-line-of-duty injury received while in City service.

- F. Effect of Holidays - If an Employee is scheduled to work on a holiday and is eligible for compensation under this Article, the Employee shall be compensated for the holiday at his/her normal rate of pay times his normally scheduled hours and not be charged or compensated for injury leave.
- G. False Claim - The City has the right to, and may if it so chooses, investigate any and all injury leave claims before compensation is paid. Management reserves the right to withhold benefit payments or take disciplinary action up to and including discharge against an Employee who is guilty of submitting false claim for benefits covered in this Article or for working for another employer while on injury leave and is physically capable of performing his/her assigned classification.

## **ARTICLE 15** **OVERTIME**

Section 15.01. This Article is intended only as a basis of calculating overtime payments, and nothing in this Agreement shall be construed as a guarantee of hours of work per day or per week.

Section 15.02. All duty time in excess of a normal watch or in excess of eighty (80) hours bi-weekly for sworn personnel, or forty (40) hours per week for non-sworn personnel, when authorized by a supervisor, will be considered overtime and paid as such.

Section 15.03. Overtime, when authorized by the supervisor and approved by the Chief, will be paid at the rate of time and one-half for the total overtime worked. When overtime is due for a part of a full hour, it will be calculated and paid to the nearest one-tenth (1/10th) hour.

If an employee is held over or ordered in beyond their regularly-scheduled shift on the calendar date of a holiday, the employee shall be paid at two-and-one-half times their regular rate for those additional hours. This pay may not be taken as compensatory time.

There shall be no pyramiding of overtime.

Section 15.04. **Call-In:** The following call-in provisions apply to full-time Employees excluding those management and professional personnel who are exempt from overtime compensation.

Employees who have completed the work assignment and who are called by the City to work after leaving the City property shall be provided a minimum of four (4) hours work at one and one-half (1½) times their regular rate of pay, or six (6) hours of pay in lieu thereof. To the extent that this minimum four (4) hour overtime period might overlap with the normal work shift (in cases where the overtime period is immediately prior to the starting time of normal work shift) then the regular rate of pay will prevail and there will be no double payment of both overtime and normal shift pay. All call-in time shall be deemed to be for duty, except for required attendance at in-service training and mandatory departmental meetings.

RERT call-in provisions are governed by Special Order 00-002 dated January 28, 2000.

Section 15.05. Planned overtime shall be equally distributed where practical.

Section 15.06. The City shall follow the Overtime Equalization Call Out Procedure that is agreed to between City and Lodge.

Section 15.07. **Cancellation of Scheduled Duty Time:** Any Employee reporting for scheduled duty which is subsequently canceled or changed without prior notice to the Employee and the Employee is not allowed by their supervisor to work the scheduled assignment shall receive two (2) hours pay at one and one-half time his/her regular rate of pay.

Section 15.08. **Range and Training Time, Departmental Meetings:**

- A. All off-duty hours worked related to scheduled range training, scheduled training classes and scheduled mandatory departmental meetings attended will be paid at time and one half (1½). Such range time, training time and departmental meetings will be compensated at a minimum of two (2) hours or actual time worked.
- B. Employees scheduled for training with less than ten (10) calendar days notice from the first (1<sup>st</sup>) day of training shall have the option to adjust their work schedule to attend training. Overtime will be paid if applicable, to the appropriate department employee.

**ARTICLE 16**  
**COURT TIME**

Section 16.01. All Employees, when off duty, who are required to appear in court for criminal proceedings or administrative hearings shall be credited with the actual time spent for a court appearance at time and one-half (1 ½) their hourly rate of pay, with a minimum of four (4) hours pay at one and one-half (1½) their hourly rate of pay. To the extent that this minimum period overlaps with the normal shift, then the regular rate of pay will prevail during the normal shift hours and there will be no double payment of Court Time and normal shift pay. The Employee shall verify on the prior business day whether a scheduled court or hearing appearance has been cancelled. An Employee who fails to confirm whether their presence is required the following day is ineligible for Court Time pay if the appearance is cancelled.

Section 16.02. If an employee is off duty and is required by the City to meet with an attorney concerning a matter involving the City, the employee will be compensated at time and one-half (1½) the regular hourly rate for actual time spent, or a minimum of two (2) hours, whichever is greater.

**ARTICLE 17**  
**COMPENSATORY TIME**

Section 17.01. Employees who wish to receive compensatory time, instead of overtime, for time worked above their eighty (80) hour bi-weekly pay period shall be allowed to accumulate such time up to two hundred sixty (260) hours. Compensatory time will be earned at the same rate of pay as overtime, one and one-half (1½) times the employee's hourly rate.

Section 17.02. Requests for compensatory time off must be submitted sixteen (16) hours in advance of taking such leave for approval by the supervisor.

Section 17.03. Employees may only take the compensatory time off if it does not substantially interfere with the operation of the Department of Police.

## **ARTICLE 18** **INSURANCE**

### Section 18.01. **Medical Insurance:**

- A. All full-time Employees and their eligible dependents shall be eligible to participate in the City's medical insurance plan entailing comprehensive medical benefits, major medical coverage, prescription drug, diagnostic service, hospitalization, surgical coverages and emergency care.

Effective January 1, 2022, all Employees electing health insurance coverage will pay seventeen and one-half percent (17.5%) of the total premium of their elected insurance plan. Thereafter, the Employees will pay the same percentage as the non-union employees as adopted in the annual budget. During the term of this Agreement, the total annual employee contribution shall not exceed nineteen percent (19.0%) of the total annual premium of their elected insurance plan.

- B. All full-time bargaining unit members hired on or after January 1, 2022 shall be offered the HDHP with HSA as their medical insurance plan. Such employee may opt to buy-up to the PPO plan during the initial enrollment period or during the annual plan renewal dates at their own expense, with the member paying the entire cost difference between the HDHP with HSA and the PPO plan otherwise incurred by the City. The City will annually determine this buy-up amount at the insurance plan year renewal date.
- C. Employees covered herein may choose to participate in the medical insurance plan provided by the City during the term of this Agreement. It is understood that if an employee incurs covered hospital or other medical expenses in connection with an illness or injury caused by the negligence or wrongful act of a third party, the insurance provider shall be the subrogated party to the extent of any and all payments made by said provider with respect to such illness or injury and the employee or his/her agent shall execute all papers to secure such provider of such right of subrogation.
- D. During the term of this Agreement, and to ensure the City may obtain and contract for competitive rates on insurance for its employees, the City may change the medical insurance plan, insurance provider or method of providing medical services, provided that the health benefits, coverage levels and provider network are not substantially reduced or the cost shifting to employees significantly increased relative to the quoted options received by the City.
- E. Effective April 1, 2003 any employee contribution toward medical insurance premiums shall be tax sheltered pursuant to Section 125 of the Internal Revenue Service Code (as long as this is permitted by the IRS).

### Section 18.02. **Dental Insurance:**

All full-time Employees and their eligible dependents shall be eligible to participate in the City's dental insurance plan implemented with this Agreement. This dental plan shall consist of coverages including

preventive services (100%), basic services (80%), major services (50%), annual maximum (\$1,000), orthodontics (50%), lifetime maximum (\$1,500), and deductible.

Effective January 1, 2022, Employees will pay seventeen and one-half percent (17.5%) of the total premium of the elected insurance plan. Thereafter, the Employees will pay the same percentage as the non-union employees as adopted in the annual budget. During the term of this Agreement, the total annual employee contribution shall not exceed nineteen percent (19%) of the total annual premium of the elected insurance plan.

During the term of this Agreement, the City may change the dental plan, provider or method of dental insurance services, provided that the dental care benefits, coverage levels and provider network are substantially comparable to the pre-existing plan.

**Section 18.03. Life Insurance:** Each full-time Employee may elect to be insured under the City insurance plan. The City shall pay the premium for the Employee for coverage of \$30,000.00. Any Employee who elects not to be insured under such a plan shall not receive such contribution made by the City for life insurance as salary, wages, compensation, reimbursement or in any other form or manner.

**Section 18.04. Waiver of Coverage:** An employee eligible to receive medical insurance under this Article, either a Family Plan or a Single Plan, may elect to decline such coverage and in lieu thereof receive monthly cash payments from the City of \$125 (\$1,500 per year) for waiving family coverage and \$62.50 (\$750 per year) for waiving single coverage. In order to qualify for such cash payments, an employee must remain covered by other medical insurance that is not from the City. The timing of when an employee may elect to receive such cash payments in lieu of medical insurance coverage, certification of coverage, and description of the plan parameters can be found in the City's Medical Insurance Opt Out Policy. An employee who is married to another City employee covered under the plan may not participate in this waiver.

## **ARTICLE 19**

### **FRINGE BENEFITS**

**Section 19.01. Personal Absence Days (Shifts):**

- A. Employees who have been employed by the City for at least one (1) year shall be entitled, during each calendar year this Agreement remains in effect, to four (4) shifts of personal absence, not chargeable against sick leave, without loss of pay. Personal absence shifts will be pro-rated for employees with less than one (1) year of service, with one (1) shift provided upon hire and one (1) shift earned in each quarter thereafter until January 1. On January 1, four (4) shifts shall be allocated to the Employee. Unused personal absence days are not carried over from year to year.
- B. Personal absence may be taken at any time during the applicable calendar year subject to the prior approval of the supervisor. The City reserves the right to refuse to permit an Employee to take a day (shift) of personal absence on any day when the taking of such a day (shift) of personal absence will substantially interfere with the operation of the Department of Police; however, to the extent possible, the desire of each Employee with respect to the day (shift) he desires as personal absence will be honored. In the event two (2) or more Employees desire to take their day(s) (shifts) of personal absence on the same day (shift) and it is the determination of the supervisor that not all can be accomplished on such day(s), the Employee(s) with the greatest seniority will be given preference.

**Section 19.02. Attendance Bonus:** All Employees who use zero (0) hours of sick leave in a year shall receive \$450 as a bonus. Attendance shall be calculated on any twelve (12) month rotating period. Payment shall be made within thirty (30) days of completion of the twelve (12) month period. An employee who uses sick leave for an FMLA-qualifying event is ineligible for an Attendance Bonus.

**Section 19.03. Seniority Bonus:** All Employees who have the following continuous years of seniority shall receive the following amounts as a bonus once a year at the anniversary date of the Employee:

7 through 10 years of service	\$650
11 through 15 years of service	\$850
16 through 20 years of service	\$1050
21 through 25 years of service	\$1250
26 years of service and above	\$1450

**Section 19.04. Education Incentive:** Management will pay an education incentive bonus to those Employees who have earned a degree from an accredited college in accordance with the scale provided below:

<u>Amount</u>	<u>Degree</u>
\$300	Associate's Degree
\$650	Bachelor's Degree
\$1000	Post Graduate Degree

The incentive pay bonuses shall be paid in the first pay period in November on an annual basis.

The Employee shall submit proof of an earned degree if not already on file.

Employees will receive the annual incentive for degrees obtained prior to their employment by the City. The incentive will only be paid to employees earning a degree after their hire by the City where the degree earned is in a field of study related to the employee's bargaining unit work, as determined by the Chief. Upon earning a qualifying degree after their hire date, and in addition to the annual education incentive payment, the Employee shall receive a one-time lump sum payment of the corresponding annual incentive.

This paragraph shall in no way apply to Section 19.05 (Tuition Reimbursement) of this Agreement.

**Section 19.05. Tuition Reimbursement:** All Employees are entitled to tuition reimbursement for all classes or courses at an accredited school or university, related to an Employee's personal career development and the City's personnel development needs. Any Employee who earns the grade of "C" or above shall be reimbursed 100% of the cost of tuition.

Effective 1/1/2014, the maximum tuition reimbursement to any employee in a calendar year is the threshold for tax free employer provided assistance established for each year by the IRS. As outlined in IRS Publication 970, Tax Benefits for Education, the threshold for calendar year 2013 is \$5,250.

Any disputes as to whether an employee is entitled to tuition reimbursement on the basis of the courses selected shall be submitted to a Tuition Reimbursement Committee which shall be made up of three members, one appointed by the Union, one appointed by CWA and one appointed by management. Determinations made by the Committee may be appealed to the grievance-arbitration procedure.

An employee receiving reimbursement must continue his/her employment with the City for two (2) years from the end of the last reimbursed grading period. If not, the employee shall pay back to the City a proportionate share of the cost of the tuition and any fees incurred under this program. The proportion shall be a fraction, the numerator of which is the twenty-four (24) months minus the number of months since the end of the last reimbursed grading period and the denominator of which is twenty-four (24) months. This fraction will be multiplied by the total amount the City has paid. Repayment by the employee may be withheld from the employee's last check.

**Section 19.06. Retirement:** All Employees, except certain part-time Employees who are exempt due to the number of hours they work or due to their student classification, are covered under the appropriate state retirement program which also specifies the provisions regarding retirement from the City.

- A. No individual employed by the City shall be eligible to pay into the regular social security system administered by the federal government.
- B. The City may, at its option, terminate the employment of any uniformed police personnel in its service as of June 30 of the year such Employee has attained the age of seventy (70) years. However, any uniformed police personnel whose employment is not so terminated shall be required to present a certification prior to June 30 of each succeeding year by a physician licensed to practice in this state. The physician must be mutually acceptable to such Employee and the City and must certify that the Employee is physically and mentally competent to perform the duties of the particular position which he/she occupies in the City service. Employees desiring to work beyond the age of seventy (70) may be granted, upon approval of the City Manager, one (1) year extensions to work past the age of seventy (70), not to exceed three (3) such extensions. Uniformed police may retire subject to the provisions of the Police and Fireman's Pension Fund.
- C. Any Employee eligible for retirement or desiring information regarding the retirement system under which they are covered may contact the City Manager through the Chief for review of such information.
- D. Any Employee planning to retire is eligible for early retirement from the City. Said Employee shall first contact his/her respective retirement system and obtain a prospective eligibility date of retirement. Once obtained, the Employee can file a Notice of Retirement with the City for conversion of Sick Leave and Compensatory Time to pay or to Vacation Time, in accordance with City Personnel Policy.
- E. Upon retirement, a pro-rata share of the attendance period which includes the conversion time the Employee was on the payroll, shall be paid as an Attendance Bonus in the event that the Employee used zero hours of Sick Leave in the partial terminal year.
- F. Upon age and service retirement, the Employee shall have the option to purchase his/her service weapon, badge, and the city issued "retired" identification card for the cost of \$1.00.

**ARTICLE 20**  
**WAGES, ACTING SUPERVISOR PAY, SHIFT DIFFERENTIAL**

**Section 20.01. Salary Classifications:** For purposes of determining wages during the term of this Agreement, the following salary classifications shall apply:

Grade 117 - Patrol Officer



Section 20.02 2022 Wages

**Effective January 1, 2022, all bargaining unit wages shall be increased two and three quarter percent (2.75%) over the previous year (2021):**

2022	Grade	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	STEP 7
Patrol Officers	117	\$ 65,915	\$ 69,680	\$ 73,486	\$ 77,272	\$ 81,058	\$ 84,822	\$ 88,670
		\$ 31.69	\$ 33.50	\$ 35.33	\$ 37.15	\$ 38.97	\$ 40.78	\$ 42.63

Section 20.03 2023 Wages

**Effective January 1, 2023, all bargaining unit wages shall be increased three percent (3.00%) over the previous year (2022):**

2023	Grade	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	STEP 7
Patrol Officers	117	\$ 67,891	\$ 71,781	\$ 75,691	\$ 79,581	\$ 83,491	\$ 87,360	\$ 91,333
		\$ 32.64	\$ 34.51	\$ 36.39	\$ 38.26	\$ 40.14	\$ 42.00	\$ 43.91

Section 20.04 2024 Wages

**Effective January 1, 2024, all bargaining unit wages shall be increased three percent (3.00%) over the previous year (2023):**

2024	Grade	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	STEP 7
Patrol Officers	117	\$ 69,930	\$ 73,944	\$ 77,958	\$ 81,973	\$ 85,987	\$ 89,981	\$ 94,078
		\$ 33.62	\$ 35.55	\$ 37.48	\$ 39.41	\$ 41.34	\$ 43.26	\$ 45.23

**Section 20.05. Acting Supervisor Pay:** Employee, who, in the absence of a Supervisor, is designated by the Police Chief or his designee to serve as Acting Supervisor, and who is required to work and substantially perform the job duties of the Supervisor, shall receive the Supervisor's entry level rate of pay for each hour that he serves as and substantially performs the duties of the Supervisor.

**Section 20.06. Detective Supplement:** Employees assigned to a detective function will be compensated an additional \$1.00 per hour while performing this function.

**Section 20.07. Shift Differential:**

- A. **Night-time:** A differential in pay of \$.75 per hour will be accorded to Employees performing patrol function between the shift hours of 1500 to 0700, or otherwise based on the schedule in effect. This differential will not apply to training and benefit time.

- B. **Weekend:** A differential in pay of \$.55 per hour will be accorded to employees performing patrol function between the hours of 0700 on Saturday up to 0700 on Monday, or otherwise based on the schedule in effect. This differential will not apply to training and benefit time.
- C. Night and weekend differentials shall be added to the base for purposes of calculating overtime pay.

**Section 20.08. Field Training Officer:** Authorized Field Training Officer (FTO) shall receive either two and one quarter (2 ¼ ) hours of pay per twelve hour shift or one and one half (1½) hours of pay for any shift less than twelve hours at the Employee's regular hourly rate of pay for all assignments involving directly training a probationary officer or other officer assigned to a Field Training Officer.

**Section 20.09. Physical Fitness Incentive:** The City and the Lodge hereby establish a Physical Fitness Incentive Program intended to encourage Employees to adopt and maintain healthier lifestyles and achieve and maintain higher levels of physical fitness, with the goals of enhancing officer and public safety and reducing injuries. Participation in the Physical Fitness Incentive Program is voluntary for Employees.

- A. The City and the Lodge shall form a committee in 2019 to review physical fitness programs in comparable police districts. The Chief shall determine which physical fitness standards the Department will adopt. The incentive will be implemented in 2020.
- B. Employees who participate in the Physical Fitness Incentive program and satisfy those standards adopted by the Chief will receive a monetary bonus of up to \$500 each year, in amounts determined by the Chief, to be paid no later than the first pay in December of that year.

## **ARTICLE 21**

### **UNIFORM ALLOTMENT**

**Section 21.01.** The City shall furnish all authorized uniforms and equipment to uniformed personnel. All items furnished by the City shall be returned to the City upon termination of the Employee's employment.

**Section 21.02.** The City shall be responsible for furnishing and dry cleaning of each sworn Employee uniform on a regular basis.

**Section 21.03.** All non-uniformed Employees, (Detectives) shall receive, in lieu of the uniform allotment above-described, clothing allowance in the amount of \$45.00 per pay period during the period this Agreement remains in effect. Additionally all Detectives will receive one (1) full summer and one (1) full winter uniform.

## **ARTICLE 22**

### **MISCELLANEOUS**

**Section 22.01. Shift Preference:** Shift preferences shall be offered on the basis of seniority with the exception for those individuals with specialized skills such as, but not necessarily limited to, FTOs, K-9 Officers, Motor Officers, Evidence Technicians and Crash Investigators. Employees shall be assigned to their shift one (1) time per year unless there is a vacancy.

**Section 22.02. Special Assignments:** The Employer will refer all requests for private security services to the Police Department Extra-Duty Coordinator.

Section 22.03. **Minimum Manning for Safety:** The City and the Lodge recognize that the absence of a certain level of staffing on any shift may constitute a potential risk to the Employees as well as the public. The safety of the Employees and the public are of utmost concern and each shift will maintain a sufficient level of staffing that will provide for safety of the employees and the efficient and effective service to the public.

Between the hours of 2300 and 0700 the City will maintain a minimum of two (2) Communications Operators, four (4) patrol officers and one (1) supervisor.

Between the hours of 0700 and 1500 the City will maintain a minimum of two (2) Communications Operators, four (4) patrol officers and one (1) supervisor.

Between the hours of 1500 and 2300 the City will maintain a minimum of two (2) Communications Operators, five (5) patrol officers and one (1) supervisor.

Supervisor indicated above is defined as an individual with the rank of Sergeant or a designated patrol officer in charge (OIC) in the absence of a Sergeant. Since one (1) supervisor is on duty at all times, Sergeants and OICs, when performing the supervisory functions will not be included in the calculation of patrol officer minimums. If the shift goes below the patrol officer minimums outlined above, supervisory overtime will be offered to the Sergeants first.

Request for benefit time off (vacation, personal absence days, compensatory time) for all employees assigned to Communications and Patrol will be granted on a first come first served basis within a thirty (30) day period: except where provisions of the Collective Bargaining Agreement allow seniority to be the determining factor.

No more than two (2) Communications Operators, total, from all three (3) shifts, shall be granted benefit time off in any twenty-four (24) hour period.

No more than two (2) patrol officers per shift shall be granted benefit time off for a given day. No patrol shift will be allowed to drop more than one (1) below patrol officer minimum staffing levels as a result of any approved benefit time off.

Both parties recognize there may be limited occasions where minimum staffing levels could be relaxed if it does not create additional safety risks and does not substantially interfere with the operation of the police department. Should these special circumstances arise the parties can mutually agree to an exception of the minimums. If either party determines that safety or operational concerns prevents their mutual agreement to the exception, then the minimum number outlined above will be maintained.

Section 22.04. The City agrees that the avoidance of the payment of overtime is not a factor in the determination of circumstances which interfere with Police operations.

Section 22.05. **Damaged Personal Property** Personal property, which is damaged in the line of duty, performing a police function, will be repaired or replaced by the City at no cost to the Member, except where such damage or loss was caused by the Member's negligence. Such personal property shall include, but not be limited to, prescription eye glasses (including frames), contact lenses, dentures, and wristwatches. Damaged items shall be turned in to the City. The following allowances and limitations will apply: \$500.00 maximum per personal item damaged to a \$500.00 maximum per incident. A report will accompany all requests for reimbursements under this Section.

Section 22.06. Direct Deposit All bargaining unit Employees' paychecks will be issued by direct deposit, unless a request for accommodation for religious beliefs has been approved by the City Manager.

## **ARTICLE 23**

### **DRUG AND ALCOHOL REGULATIONS**

Section 23.01. Policy: The City has zero tolerance for its employees' use of illegal drugs, alcohol misuse, and legal drug misuse. Illegal drugs and alcohol misuse are inconsistent with the City's commitment to a safe and productive work environment. The public has the right to expect Employees of the Police Department to be free from the effects of illegal drugs and the impairment from alcohol or legal drugs while on duty. The City, as the employer, has the right to expect its Employees to report to work fit and able for duty and to set a positive example for the community. Moreover, the illegal use of drugs or an Employee's impairment resulting from known adverse side effects of prescription drugs or from consumption of alcohol presents unacceptable risks to the safety and well-being of the Employees and the public, results in accidents and injuries and reduces productivity. This policy is not intended to violate any established constitutional rights of Employees of the City of Beavercreek.

Section 23.02. Definitions:

Illegal Drug means any "controlled substance" as defined in Ohio Revised Code Section 3719.01(D), and any "dangerous drug" as defined in Section 4729.02 of the Ohio Revised Code, the possession or sale of which, without a prescription or license, is prohibited by law. "Illegal drug" includes medical marijuana in any form and any CBD product containing 0.3 percent or more tetrahydrocannabinol ("THC") in any of its derivations by weight.

Legal Drug means any substance, the possession or sale of which is not prohibited by law.

Prescription Drug means any "controlled substances" or "dangerous drug" for which possession and use are legal when "prescribed" by licensed medical personnel. "Prescribed" means a written or oral order for a controlled substance for the use of a particular person given by a practitioner in the course of professional practice and in accordance with the regulations promulgated by the United States Drug Enforcement Administration, pursuant to the federal drug abuse control laws.

Alcohol means beer or intoxicating liquor as defined in Section 4301.01 of the Ohio Revised Code.

Illegal Drug Use means the use of any "controlled substance" or "dangerous drug" which has not been legally prescribed and/or dispensed, or the use of a prescription drug which is not in accordance with the manner in which it was prescribed.

Legal Drug Misuse means the overuse or inappropriate use of any legal drug, including the use of a CBD product containing less than .3 percent THC in any of its derivations by weight that results in a Positive Drug Test Result.

Alcohol Misuse means the consumption of beer or intoxicating liquor as defined in Section 4301.01 of the Ohio Revised Code resulting in the presence in an on-duty employee of a concentration of two hundredths of one percent (.02) or more by weight of alcohol in his/her breath or two hundredths of one gram (.02) or

more by weight of alcohol per two hundred ten liters of his/her breath or an off-duty employee being under the influence of such intoxicant above the legal limit which is in violation of any state or local law.

Alcohol Test means a procedure to identify the presence of a minimum specified level of alcohol in an employee. Breath tests to determine the level of alcohol must be given by a Breath Alcohol Technician (BAT) trained to proficiency and certified by the appropriate state agency in the operation of the Evidential Breath Testing instrument (EBT). If an employee is hospitalized, such breath/alcohol testing shall be conducted in accordance with the guidelines of the medical facility.

Initial Drug Test (also known as Screening Test) means an immunoassay test to eliminate “negative” urine specimens from further consideration and to identify the presumptively positive specimens that require confirmation through further testing.

Confirmatory Drug Test means a second procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to insure reliability and accuracy. At this time gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

Confirmed Positive Drug Test Result means a positive confirmatory drug test which has been confirmed by the Medical Review Officer (MRO).

Negative Drug Test Result means the absence of illegal drugs in any form or metabolites in sufficient quantities such that the illegal drug or its metabolites is not at or above the specified cutoff level in accordance with the Substance Abuse and Mental Health Services Administration (SAMHSA) standard or the standards set forth in Policy or the absence of a confirmed positive result.

Positive Alcohol Test means the presence in an on-duty employee of a concentration of two hundredths of one percent (.02) or more by weight of alcohol in his/her breath or two hundredths of one gram (.02) or more by weight of alcohol per two hundred ten liters of his/her breath or the presence of a concentration of alcohol above the legal limits under state law in an off-duty employee.

Collection Site means a place where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs. The site will be designated by the City in the case of random drug testing. Such collection site shall also be used for just causes or reasonable suspicion drug testing if the site is available. If the employee is hospitalized or if the collection site is unavailable, the collection site will be either the location where the employee is hospitalized or another site mutually agreed upon by the City and the Lodge.

**Section 23.03. Work Rules:**

1. Whenever Employees are on duty, operating City vehicles, using an Employee’s personal vehicle while on City business, or present on City premises, they are prohibited from using, possessing, buying, selling, manufacturing, delivering or dispensing illegal drugs; except as may be necessary in the performance of duty.
2. Employees are prohibited from using, possessing, buying, selling, manufacturing, delivering or dispensing illegal drugs at anytime or place, on or off duty, except as may be necessary in the performance of duty.

3. This Policy does not prohibit Employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their doctors about the medications' effect on their ability to work safely, and promptly disclose any restrictions to their supervisor. An employee's failure to previously inform his/her supervisor of medication restrictions that are discovered during the drug testing process may result in discipline, up to and including discharge, regardless of the drug test result. Employees should not, however, disclose underlying medical conditions unless specifically directed to do so.
4. No Employee shall consume alcohol, as defined in this Policy, while on duty, except in the performance of assigned police duty. This includes consuming alcohol on designated lunch and shift breaks while on the employee's own time.
5. No Employee shall consume alcohol, as defined in this Policy, such that when he/she is on duty there is a concentration of two hundredths of one percent (.02) or more by weight of alcohol in the Employee's breath or two hundredths of one gram (.02) or more by weight of alcohol per two hundred ten liters of the Employee's breath.
6. Employees are required to cooperate in the types of tests described in this Article and are prohibited from tampering with or otherwise obstructing such tests.
7. Employees may consume or possess alcohol when authorized in connection with a City-sponsored social event and during non-work hours, and may possess unopened containers of alcohol in personal vehicles parked on City premises.

**Section 23.04. Reasonable Suspicion Drug and Alcohol Testing:**

1. Reasonable suspicion of illegal use of drugs and/or alcohol must be based on specific, objective facts and any derived inferences from those facts about the conduct of an Employee that would lead a reasonable person to suspect that the employee is engaged in/under the influence of: (1) illegal drug use or legal drug misuse while on or off duty, or (2) alcohol misuse while on duty.
2. Reasonable suspicion of the above is based upon a combination of a number of behavioral and performance factors some of which may include, but are not limited to:
  - a. Disturbances in gait (walking);
  - b. Slurred speech;
  - c. Odor of alcohol, marijuana or other illegal drug;
  - d. Impaired gross or fine motor skills;
  - e. Changes in appearance such as flushed face, dilated pupils, red or blurry eyes, carelessness in dress or appearance, hand tremors, et al.;
  - f. Needle marks on body;
  - g. Excessive or repetitive vehicular, equipment or workplace accidents;

- h. Inconsistent work patterns or disruption of work patterns;
  - I. Decreasing reliability or disruption of work patterns;
  - j. Neglecting details formerly not neglected;
  - k. A history of repeated citizen complaints;
  - l. A record of decreased productivity or quality of work;
  - m. A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance such as frequent absenteeism, excessive tardiness, or recurrent accidents, that appears to be related to the use of alcohol or a controlled substance, and does not appear to be attributable to other factors;
  - n. The identification of an employee as the focus of a criminal investigation into unauthorized possession, use, or trafficking of a controlled substance. The employee is responsible for notification of the City immediately of any drug-related convictions;
  - o. A report of use of alcohol or a controlled substance provided by a reliable and credible source;
  - p. Repeated or flagrant violations of the safety or work rules of the City that are determined by the employee's supervisor to pose a substantial risk of physical injury or property damage and that appear to be related to the use of alcohol or a controlled substance and that do not appear attributable to other factors;
  - q. Newly discovered evidence that the employee has tampered with a previous drug or alcohol test.
3. Supervisors encountering such trends by employees must use good judgment in evaluating the situation. Supervisors should document patterns of deteriorating work performance to establish factual data in establishing reasonable suspicion. Reasonable suspicion testing does not require certainty, but mere "hunches" are not sufficient to justify testing. To prevent this, all managers/supervisors will be trained to recognize drug and alcohol-related signs and symptoms. Testing may be for alcohol or drugs (illegal, prescription or over-the-counter) or both.
  4. A Supervisor requesting a drug screen and/or alcohol intoxilyzer test as a result of reasonable suspicion must submit a written report to the Chief of Police. This report will outline the facts and/or observations gathered by the Supervisor on which he bases reasonable suspicion. The Chief of Police or designee will review the Supervisor's report and then determine if sufficient facts and/or observations have been gathered to establish reasonable suspicion.
  5. In the event that time will not permit a written report to be submitted, Supervisors shall obtain verbal approval from the Chief of Police or his designee prior to initiating drug or alcohol testing for reasonable suspicion. The Supervisor shall document the verbal approval.

6. If the Chief of Police or his designee, upon review, determines reasonable suspicion requirements have been met, he may order an immediate drug and/or alcohol test. These tests will be administered according to the specimen collection and testing procedures set forth in this Policy.
7. Where reasonable suspicion arises, the employee suspected of substance use will be taken by the supervisor to a local clinic for drug/alcohol testing. Following the drug/alcohol test, the employee will be sent, or taken, home and placed on suspension until the results from the test are obtained by the City.
8. If the employee's test results are negative, then the employee will be returned to his/her original job position and will receive pay for any periods for which he/she was suspended pending the drug test results. If the employee's test results are positive, then the employee will be subject to discipline, up to and including termination, and will not receive pay for any periods of suspension pending the test results.
9. Employees legally taking prescription drugs or over-the-counter medications, which might impair their ability to perform their job duties must report such drug use to their immediate supervisor. Depending on the circumstances, the City may place the employee in a non-safety sensitive position while taking the drugs (prescription or OTC) or place the employee on an unpaid leave of absence [or paid sick leave if available] while taking the drugs.

**Section 23.05. Just Cause and Post-Accident Testing:**

1. Just cause for drug testing (urine) and/or alcohol testing (intoxilyzer or breath) shall exist when:
  - A. There is direct observation of illegal drug use on or off duty or alcohol usage on duty;
  - B. An on duty Employee possesses alcohol or an on or off-duty employee possesses drugs or related drug paraphernalia which is outside the scope of his/her job duties;
  - C. An Employee admits to illegal drug use or possession or alcohol misuse;
  - D. An Employee returns to duty after an absence of thirty (30) calendar days or more resulting from medical leave or a disciplinary suspension.
2. Post-accident testing for drugs and/or alcohol can be conducted whenever an accident occurs, regardless of whether or not an injury results from the accident. An accident is an unplanned, unexpected, or unintended event that occurs on City property, during the conduct of City business, or during working hours, or which involves one of the City's motor vehicles, or a motor vehicle used in conducting City business, or is within the scope of employment, and results in any of the following:
  - A. A fatality of anyone involved in the accident;
  - B. Bodily injury to the employee and/or another person that requires off-site medical attention away from the City's place of employment; or



- C. Vehicular or non-vehicular damage in apparent excess of \$400.

In addition, testing will occur when an officer fires a weapon at someone whether or not the person is injured, or an employee discharges a firearm apparently in violation of the Department's Firearms Policy.

**Section 23.06. Follow-Up Testing After Return to Duty from Assessment or Treatment.**

A return-to-duty test will occur when an employee, who previously tested positive for substance use but was not terminated, is reinstated to his/her position.

A negative return-to-duty test is required before the employee will be allowed to return to work. If the employee fails the return-to-duty test, he/she will be immediately terminated from employment.

After an employee passes the return-to-work drug and/or alcohol test and resumes working, the City, at its discretion, can require additional unannounced tests for as long as twenty four months. Any employee with a positive second substance test result will be immediately terminated.

**Section 23.07. Alcohol Testing Procedures:** Employees subject to alcohol testing shall be sent or driven to a City-designated clinic and directed to provide breath specimens in a private setting. Specimens shall be collected by trained technicians, using testing devices approved for evidential breath testing by the federal government, which are regularly calibrated and capable of producing printed results that identify the Employee.

The technician shall first conduct a screening test. If the screen test results are less than .02, then the Employee will be treated as passing the alcohol test. If the screen tests results in an alcohol concentration of at least .02, the technician shall instruct the Employee not to belch or put anything in his or her mouth and conduct another confirmation test, 15-30 minutes later. If the confirmation test results in an alcohol concentration of less than .02, the Employee shall be treated as passing the test. If the confirmation test results in an alcohol concentration of .02 or more, the employee shall be subject to the consequences described later in this Article.

**Section 23.08. Drug Testing Procedures:**

A. **The Drug Testing Facility** - The Lodge and the City of Beavercreek shall mutually agree upon an independent drug testing laboratory in the greater Dayton area to conduct tests and to select the MRO who will perform the independent computerized probability sampling process. All laboratory contacts shall require that the contractor comply with the Privacy Act, 5 U.S.C. Section 522a. In addition, laboratory contracts shall require compliance with patient access and confidentiality provisions of Section 503 of Public Law 100-71. The agency shall establish a Privacy Act System of Records such that the employee records will be maintained and used with the highest regard for employee privacy.

B. **Sample Collection**

The following procedures will be utilized for all drug testing:

1. When an Employee has been directed by a Supervisor to provide a urine specimen for any of the reasons detailed in this Policy, he/she will be taken immediately to the collection site by an officer of higher rank or Internal Affairs. If the Employee is

hospitalized or if the collection site is unavailable, the collection site will be either the location where the Employee is hospitalized or another site mutually agreed upon by the City and the Lodge.

2. The Employee will be required to sign an appropriate “Drug Screen Consent” form at the time he/she is taken to the collection site.
3. Failure or refusal to submit to the requirement that a specimen be provided or any undue delay by the Employee or failure or refusal to execute the appropriate “Drug Screen Consent” form or any other required form or cooperate in good faith with the testing and laboratory procedures may result in discharge.
4. The Employee may make arrangements for a Lodge representative to witness the testing procedure; however, the Employee must obtain the witness within one-half hour of the scheduled test time. The witness will be prohibited from any action other than witnessing the test procedure.
5. Specimen collection will be in accordance with the guidelines of the SAMHSA certified testing facility mutually agreed upon by the City and Lodge or in accordance with the guidelines of the medical facility being used in the case of a hospitalized Employee or where the agreed upon laboratory is unavailable. In the case of reasonable suspicion and for cause testing, if the laboratory site is unavailable and the Employee is not hospitalized, the specimen will be collected following as closely as possible the DHHS procedures for collection.
6. Each step in the collecting and processing of the urine specimens shall be documented to establish procedural integrity and the Chain of Custody as prescribed by the guidelines of the mutually agreed upon testing laboratory or the medical facility. In the event that laboratory procedures change, the Lodge and the City will be notified. The implementation of the change will be deemed mutually agreed upon.
7. The employee designated to give a sample must be positively identified with either an Ohio operator’s license or police I.D. prior to any sample being taken.
8. The medical testing laboratory will furnish urine sample containers pre-labeled with the Employee’s testing identification number, date, and time of collection. After collection, the sample will be split into two (2) containers and will be sealed, the laboratory’s Chain of Custody form will be completed, and the Employee will be asked to confirm the information contained on the sample container and the form by signing the laboratory’s Chain of Custody form.
9. Where the testing laboratory is unavailable for reasonable suspicion or just cause testing, the urine sample provided at another location will be preserved and transmitted to the testing laboratory as soon as possible on the next work day. A Chain of Custody form will be completed by the supervisor. The form will accompany the sample to the laboratory.

C. Testing Methodology

1. The testing laboratory selected by the City and the Lodge to conduct the analysis must be SAMHSA certified, experienced and capable of quality control, documentation, chain of

custody, technical expertise, and demonstrated proficiency in urinalysis testing. The testing or processing phase shall consist of a two-step procedure:

- a. Initial Drug Test; and
  - b. Confirmation Drug Test.
2. The initial urine drug screening test shall be an Enzyme/Multiply/ Immunoassay/Testing procedure, a SAMHSA-certified method of testing.
  3. If the initial drug screening test indicates a positive result, a confirmation drug test shall be conducted. This confirmation test shall be a Gas Chromatography/Mass Spectrometry procedure, a SAMHSA-certified method of testing.
  4. An initial positive report will not be considered positive, rather it will be classified as “confirmation pending”. When a confirmation pending report is received, urine specimens shall be maintained under secured storage until a result is confirmed and for up to one (1) year thereafter. Notification of the test results shall be held until confirmation test results are obtained.
  5. All drug test results shall be evaluated by SAMHSA-certified medical or scientific personnel, prior to being reported to the MRO. The testing laboratory shall forward all drug test results only to the MRO. It is the intent of the parties that any such drug test results shall be afforded the highest degree of confidentiality. All test results shall be treated with the same confidentiality as other Employee medical records and will be disclosed only to those administrative personnel involved in the screening, rehabilitation or disciplinary process.
  6. Any sample which has been adulterated or is shown to be a substance other than urine shall be reported as such. Any adulterated sample or samples otherwise tampered with, may be treated for disciplinary purposes as a positive result.

**D. Screening Standards**

1. There shall be a five-panel screening and the substances to be tested for, and the threshold substance levels that shall be considered a positive test result are as follows:

Type of Drug or Metabolite	Standard	
	Initial Test Ng/ml	Confirmation Test
Marijuana Delta-9-tetrahydrocanna-binol- 9-carboxylic acid (THC)	50	15
Cocaine	300	150

Phencyclidine (PCP)	25	25
Amphetamines Amphetamine	1000	500
Methamphetamine		500(a)
Opiate metabolites Codeine Morphine 6-acetylmorphine (6-AM)	2000	2000 2000 10(b)

Specimen must also contain amphetamine at a concentration of greater than or equal to 200ng/ml.

Test only conducted when specimen contains morphine at a concentration greater than or equal to 2000 ng/ml.

2. Should SAMHSA add to or delete from the current panel of controlled substances or alter the initial screening or confirmation levels, the City and the Lodge will meet to discuss revising the list or testing levels to conform to SAMHSA standards. Employees will be notified, in writing, of such changes.

E. Negative Results

1. If the screen results are negative, the results will be reported in writing to the MRO and the sample will be discarded.
2. All records relating to a negative drug screen test shall become a part of the Employee's medical record and shall remain confidential and restricted.

F. Inconclusive Results

1. If any result is deemed inconclusive, the employee is subject to immediate retest under the testing processes set forth in this Article.

G. Positive Results

1. If the results of the first screen are "confirmation pending", the testing laboratory will immediately conduct a second testing procedure that is technologically different and more sensitive than the initial screen test on a different portion of the original sample.
2. If the confirmatory drug test is positive, the MRO will use his/her best efforts to notify the Employee either in writing, sent to the Employee's home address, or by telephone, to appear for a verification interview. In the event that the MRO is unsuccessful in reaching the Employee he will seek the assistance of the Lodge President and the Human Resources Manager, but not the Chief of Police. No other City employee or agent shall be informed of the positive confirmatory drug test until the verification interview is held. If the Employee refuses to participate in the verification interview, the MRO will report the confirmed positive test result to the Human Resources Manager.

3. At the interview, the Employee shall be provided an opportunity to provide the MRO with any prescription drug container, along with the identity of the prescribing/dispensing physician or health care provider, or any other evidence. The MRO shall then contact the prescribing/dispensing physician or health care provider for confirmation.
4. The MRO shall contact the testing laboratory in an effort to verify that the prescription drug presented by the Employee matches the drug identified in the positive confirmatory drug test. If the prescription drug and the drug identified in the positive confirmatory drug test match, then the drug test result shall be considered as a negative drug test result and discarded.
5. The MRO shall report the results of positive confirmation test results to the Human Resources Manager. Confirmed positive drug test results are for administrative purposes only and shall not be used against the Employee during any phase of any criminal proceeding.
6. An Employee whose drug test result is a confirmed positive drug test may demand that the second portion of the split urine specimen be tested by a SAMHSA-certified laboratory of his/her choice. If the Employee desires to test the second portion of the split urine specimen, the following procedure to effect the second testing procedure shall be required:
  - a. The Employee shall, within seventy-two (72) hours following the date on which he/she received notification of the positive test result, provide a written notice to the Chief of Police and a written directive to the MRO who will then notify the SAMHSA-certified laboratory that processed the random drug sample and issued the positive test result.
  - b. The SAMHSA-certified laboratory that issued the positive test result shall, within seventy-two (72) hours after receiving such written directive by the Employee through the MRO, cause the second portion of the split urine sample to be delivered to the SAMHSA-certified laboratory chosen by the Employee for the second drug test.
  - c. Appropriate chain of custody procedures described in Section G shall be closely followed in all cases. The alternate testing laboratory will be required to complete a Chain of Custody form.
  - d. The MRO shall notify the Employee and the Chief of Police of the test results within twenty-four (24) hours of completion of the second testing procedure.
  - e. Re-testing expenses related to the second drug screen test shall be paid by the Employee. If the drug test result from the laboratory chosen by the Employee is negative, the original confirmed test shall be considered negative and no disciplinary action will be initiated. The City shall fully reimburse the Employee for the cost of the second drug test if the test result is negative.

## H. Chain of Evidence and Record Retention

A chain of custody procedure shall be utilized by the mutually agreed upon laboratory and any other mutually agreed upon facilities to be used as the collection sites and test site. These procedures shall account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an approved agency Chain of Custody form be used from time of collection to receipt by the laboratory and that upon receipt by the laboratory an appropriate laboratory Chain of Custody form shall account for the sample or a portion of the sample within the laboratory. Chain of Custody forms shall, at a minimum, include an entry documenting date and purpose each time a specimen or portion of a specimen is handled or transferred in the Chain of Custody.

All records pertaining to Department-required drug tests shall remain confidential insofar as they shall not be provided to other employers or agencies without the written permission of the person whose records are sought.

### Section 23.09. Consequences:

1. Employees who refuse to cooperate in required tests, test positive for illegal drugs or use, possess, buy, sell, manufacture, deliver, or dispense illegal drugs in violation of this Policy will be immediately suspended without pay, pending termination.
2. Unless aggravating circumstances are present (in which case an Employee may be terminated), the first time Employees test positive for alcohol or possess, consume or are under the influence of alcohol, they will be subject to disciplinary action short of termination, and will be referred to an Employee Assistance Provider. Continued employment will be conditioned upon cooperation with the EAP, successful completion of any prescribed treatment, passing follow-up tests and other appropriate conditions.
  - a. Employees who test positive will be placed on unpaid administrative leave until the treatment regimen recommended by the EAP is successfully completed. After a successful negative return to work test and release to work certification is obtained from the EAP or other specialist, the employee will be returned to his/her job. While under treatment during this unpaid leave, the employee must utilize any accrued sick, vacation, personal and compensatory time. This leave may also be designated FMLA leave, if applicable. The Employee Manual's provisions relating to unpaid leave will also apply to this leave.
3. Employees who test positive for alcohol or violate these alcohol rules more than once are subject to further disciplinary action up to and including termination.
4. An employee who is injured on the job and tests positive for illegal drug use, legal drug misuse, or alcohol misuse, or who refuses to submit to a drug and alcohol test may be disqualified from compensation and benefits under Ohio Workers' Compensation Laws. Effective October 13, 2004, Section 4123.54 of the Ohio Revised Code requires notice of rebuttable presumption. Rebuttable presumption means that an employee may dispute or prove untrue the presumption (or belief) that alcohol or a controlled substance not prescribed by the employee's physician is the proximate cause (main reason) of the work-related injury. The burden of proof is on the employee to prove the presence of alcohol or a controlled substance was not the proximate cause of the work-related injury. An

employee who tests positive or refuses to submit to chemical testing may be disqualified for compensation and benefits under the Workers' Compensation Act.

**Section 23.09. Confidentiality:** The City shall treat initial positive test results as confidential pending final confirming reports. To the extent permitted by law, the City will attempt to maintain the confidentiality of information and records relating to positive test results, drug and alcohol dependencies and legitimate medical explanations provided the City's physician. Such information shall be maintained in secure files separate from normal personnel files. Such records and information may be disclosed among managers and supervisors on a need-to-know basis and may be disclosed outside the City where required by law, where the subject of the information consents or where a grievance, charge, claim or other legal proceeding is initiated by or on behalf of a test subject, in which the records or information are relevant.

**Section 23.10. Voluntary Request for Assistance:** The City shall take no adverse employment action against any Employee who voluntarily seeks treatment, counseling or other support for an alcohol or drug related problem (prior to being directed to take an alcohol or drug test), other than the City may require reassignment of the Employee with pay if they are unfit for duty in their current assignment. The foregoing is conditioned upon:

- a. The Employee agreeing to appropriate treatment as determined by the physician(s) involved;
- b. The Employee discontinues his use of illegal drugs or abuse of alcohol or abuse of prescription drugs;
- c. The Employee completes the course of treatment prescribed, including an "after-care" group for a period of twelve (12) months; and
- d. The Employee agrees to submit to random and/or periodic testing during hours of work during the period of "after-care".

Employees who do not agree to act or who do not act in accordance with the foregoing shall be subject to discipline, up to and including discharge. This Article shall not be construed as an obligation on the part of the City to retain an Employee on active status throughout the period of rehabilitation if it is appropriately determined that the Employee's current use of alcohol or drugs prevents such individual from performing the duties of their position or whose continuance on active status would constitute a direct threat to the property and safety of others.

Employees who are physically or mentally unfit for assignment, regular or alternative, shall be on unpaid leave so long as they are enrolled in a rehabilitation program. Those employees shall be afforded the opportunity, at their option, to use accumulated paid leave (vacation, sick leave, or comp time) or take an unpaid leave of absence for the necessary time off involved in a rehabilitation program. Where the FMLA applies, the provisions of Article 14, Section 14.05, will also apply to this leave.

The City's responsibility to pay for any treatment and rehabilitation costs shall be limited to costs paid for by the City's insurance program in which the Employee is enrolled.

**ARTICLE 24**  
**SANCTITY OF AGREEMENT**

Section 24.01. No changes in this Agreement shall be negotiated during the duration of this Agreement unless there is written accord to do so executed by and between the parties hereto, which written accord shall contain a list of those matters to be the subject of such negotiation. Any negotiated changes, to be effective and incorporated in this Agreement, must be in writing and signed by the parties. Furthermore, subject to the provisions of Article VI above, Management Rights, neither party shall attempt to achieve changes in this Agreement by recommending changes in, additions to, or deletions from the City Charter, ordinances and resolutions, or Departmental Rules and Regulations. Any past practice/benefit that has been continuous and is known and sanctioned by the Chief, excepting those past practices/benefits which are specifically addressed in this Agreement or which were specifically addressed during the negotiating sessions leading to this Agreement and not included herein, will not be altered except by negotiations between the parties.

**ARTICLE 25**  
**LEGAL REFERENCE**

Section 25.01. This Agreement is subject to all existing Federal and State laws, Personnel Rules and Regulations, Municipal Charter provisions, City Council ordinances and resolutions; and this Agreement shall be interpreted wherever legally possible so as to comply fully with such laws, provisions, ordinances, resolutions or any judicial decision interpreting them. The City shall adopt no ordinances or resolutions applicable to covered employees that are contrary to the terms and conditions of this Agreement. In the event that any provision of this Agreement is contrary to the above, with the exception of City ordinances and resolutions, such provision shall be of no further force and effect, but the remainder of the Agreement shall remain in full force and effect.

Section 25.02. Should any Article, Section or portion thereof of this Agreement be held unlawful and unenforceable by any court or administrative tribunal, competent jurisdiction or applicable legislative body, such decision or legislation shall apply only to the specified Article, Section or portion thereof directly specified. The parties will meet and discuss the abrogated provision. The remainder of this contract shall remain in full force and effect.

**ARTICLE 26**  
**WAIVER**

Section 26.01. The parties acknowledge that during the negotiations which resulted in this Agreement, each party hereto had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understanding and agreement arrived at by the parties after engaging in the collective bargaining process are fully set forth in this Agreement. For the term of this Agreement, neither party may compel the other party to accept changes in this Agreement.

**ARTICLE 27**  
**ENTIRE AGREEMENT**

Section 27.01. This Agreement sets forth the entire and complete agreement of the parties hereto with respect to wages, hours, terms and other conditions of employment of the Lodge and Employees with the



City. Except as otherwise provided in Article 24, Sanctity of Agreement, no person, board, tribunal or court shall have the authority to add to, detract from, alter, amend or modify any provision of this Agreement, or to impose upon any party any limitation or obligation which is not specifically provided for in this Agreement.

**ARTICLE 28**  
**DURATION OF AGREEMENT**

Section 28.01. This Agreement shall commence as of the 1st day of January 2022 and shall remain in full force and effect through and including the 31st day of December 2024 and thereafter for successive one (1) year periods unless either party gives written notice of its intent to terminate and/or amend any portion thereof not less than sixty (60) days prior to the 31st day of December 2024 or the 31st day of December in any succeeding year this Agreement remains in force.


Section 28.02. Service of a notice of intent to amend this Agreement as is herein provided shall serve to automatically terminate all provisions of this Agreement as of December 31, 2024 or as of December 31st of any succeeding year as the case may be, unless the parties hereto have disposed of all subjects of amendment sought by either party hereto either by agreement or by withdrawal of such proposed amendment by the party seeking same.


SIGNATURE PAGE


IN WITNESS WHEREOF, the undersigned, being duly authorized and directed by each party to this Agreement to execute this Agreement, have hereunto set their hands this 31<sup>st</sup> day of March, 2022.


CITY OF BEAVERCREEK:


FRATERNAL ORDER OF POLICE  
BEAVERCREEK LODGE # 160:

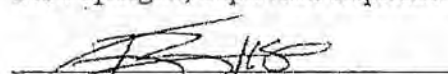
  
Pete Landrum, City Manager

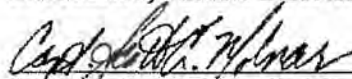
  
Brian Cline, Vice President

  
Jeff Fiorita, Chief of Police

  
Scott Spangler, Supervisor Representative

  
Bill Kucera, Finance Director

  
Kris Brownlee, Patrol Representative

  
Scott Molnar, Police Captain

  
Kristen Lay, Civilian Representative

  
Beverly Meyer, Attorney

  
Jaclyn Tipton, Attorney