

ORDINANCE NO. 2012-7

AUTHORIZING THE CITY MANAGER TO ENTER INTO A MULTI-YEAR COLLECTIVE BARGAINING AGREEMENT WITH THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC. (DISPATCHERS BARGAINING UNIT); AMENDING SEC. 131.07-2(g) OF CHAPTER 131 OF THE BLUE ASH CODE OF ORDINANCES; AMENDING SEC. 133.18-2(g) OF CHAPTER 133 OF THE BLUE ASH CODE OF ORDINANCES; AND DECLARING AN EMERGENCY

Be it ordained by the Council of the City of Blue Ash, Ohio, not less than five (5) members thereof concurring,

SECTION I.

The City Manager is hereby authorized to enter into a multi-year collective bargaining agreement with the Fraternal Order of Police, Ohio Labor Council, Inc. (Dispatchers Bargaining Unit) in accordance with the form attached hereto.

SECTION II.

Section 131.07-2(g) of Chapter 131 of the Blue Ash Code of Ordinances be, and hereby are, amended and re-enacted to read as set forth in the attachments hereto. Amended Sec. 131.07- 2(g) shall be effective retroactive to December 24, 2011.

SECTION III.

Sec. 133.18-2(g) of Chapter 133 of the Blue Ash Code of Ordinances be, and hereby is, amended and re-enacted to read as set forth in the attachment hereto. Amended Sec. 133.18-2(g) shall be effective retroactive to December 24, 2011.

SECTION IV.

The Treasurer is hereby authorized to expend the necessary funds therefor, which funds are hereby appropriated.

SECTION V.

This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and general welfare; the reason for the emergency being the immediate need to provide for certain personnel requirements of the City of Blue Ash, Ohio. Therefore, this ordinance shall take effect and be in force from and after its passage.

PASSED this 26<sup>th</sup> day of January, 2012.

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Mark F. Weber, Mayor

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Karla Plank, Acting Clerk of Council for  
Jamie K. Eifert, Clerk of Council

APPROVED AS TO FORM:

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Bryan Pacheco, Deputy Solicitor

**2012 WAGE AND SALARY SCHEDULE**  
**(Effective 12/24/2011 through 12/20/2012)**  
**(Police Dispatcher Contract)**

<b>Classification</b>	<b>Position</b>	<b>Grade</b>	<b>Range</b>
Dispatcher I	(E)	16 II	\$17.72 - \$25.43
Dispatcher II	(E)	17 II	\$23.08 - \$26.71

**2013 WAGE AND SALARY SCHEDULE**  
**(Effective 12/21/2012 through 12/19/2013)**  
**(Police Dispatcher Contract)**

<b>Classification</b>	<b>Position</b>	<b>Grade</b>	<b>Range</b>
Dispatcher I	(E)	16 II	\$17.90 - \$25.68
Dispatcher II	(E)	17 II	\$23.31 - \$26.98

**2014 WAGE AND SALARY SCHEDULE**  
**(Effective 12/20/2013 through 12/19/2014)**  
**(Police Dispatcher Contract)**

<b>Classification</b>	<b>Position</b>	<b>Grade</b>	<b>Range</b>
Dispatcher I	(E)	16 II	\$18.17 - \$26.07
Dispatcher II	(E)	17 II	\$23.66 - \$27.38

(E) Combined number of Dispatcher I and Dispatcher II positions shall not exceed (6) positions.

**2012 WAGE AND SALARY SCHEDULE  
(Effective 12/24/2011 through 12/20/2012)  
(Police Dispatcher Contract)**

<b>Grade</b>		<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>	<b>Step F</b>
16 II	H	\$17.72	\$23.08	\$23.63	\$24.20	\$24.81	\$25.43
17II	H	\$23.08	\$23.75	\$24.44	\$25.17	\$25.93	\$26.71

**2013 WAGE AND SALARY SCHEDULE  
(Effective 12/21/2012 through 12/19/2013)  
(Police Dispatcher Contract)**

<b>Grade</b>		<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>	<b>Step F</b>
16 II	H	\$17.90	\$23.31	\$23.87	\$24.44	\$25.06	\$25.68
17II	H	\$23.31	\$23.99	\$24.68	\$25.42	\$26.19	\$26.98

**2014 WAGE AND SALARY SCHEDULE  
(Effective 12/20/2013 through 12/19/2014)  
(Police Dispatcher Contract)**

<b>Grade</b>		<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>	<b>Step F</b>
16 II	H	\$18.17	\$23.66	\$24.22	\$24.81	\$25.43	\$26.07
17II	H	\$23.66	\$24.35	\$25.05	\$25.80	\$26.58	\$27.38

(E) Combined number of Dispatcher I and Dispatcher II positions shall not exceed (6) positions.

ORDINANCE NO. 2012 - 7

**COLLECTIVE BARGAINING AGREEMENT  
BETWEEN  
THE CITY OF BLUE ASH**



**AND**



**THE FRATERNAL ORDER OF POLICE,  
OHIO LABOR COUNCIL, INC.  
*DISPATCHERS***

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**ARTICLE 1**  
**PREAMBLE**

Section 1.1 This Agreement is made and entered into this ~~22~~ 26 day of ~~January, 2009~~ ~~January, 2012~~ by and between the City of Blue Ash, Ohio, hereinafter referred to as the "Employer" or the "City", and the Fraternal Order of Police, Ohio Labor Council, Inc., hereinafter referred to as the "FOP", solely as it relates to the Blue Ash Police Department employees within the bargaining unit. The purpose of this Agreement is:

To comply with the requirements of Ohio Revised Code Chapter 4117; and to set forth the full and complete understandings and agreements between the parties governing the wages, hours, terms and other conditions of employment for those employees included in the bargaining unit as defined herein.

**ARTICLE 2**  
**RECOGNITION**

Section 2.1 Thereby recognized the FOP, during the entire term of this Agreement, as the exclusive collective bargaining agent with respect to wages, hours, terms and other conditions of employment for the Dispatcher classifications within the Police Department of the City of Blue Ash as certified by the State Labor Relations Board in Case Number 05-REP-06-0085 dated October 6, 2005.

Section 2.2 All management level employees including Police Chief, police officers, confidential employees, professional employees, seasonal and casual employees, all other bargaining unit employees and civilian employees of the Employer are specifically excluded from the bargaining unit.

**ARTICLE 3**  
**FOP REPRESENTATION**

Section 3.1 Non-employee representative(s) of the FOP shall be admitted to the Employer's facilities for the purpose of processing grievances or attending meetings as permitted herein with prior approval by the City Manager or his designee. Upon arrival, the FOP representative shall identify himself to the City Manager or his designee.

Section 3.2 The Employer shall recognize two (2) employees, designated by the employees of the certified bargaining unit and approved by the FOP, to act as FOP representatives for the purposes of representation as outlined under this Agreement.

Section 3.3 No employee shall be recognized by the Employer as a FOP representative until the FOP has presented the Employer with written certification of that person's selection as a FOP representative by the employees of the certified bargaining unit.

### Section 3.4

Rules governing the activity of FOP representatives are as follows:

- (a) The FOP agrees that no official of the FOP, employee or non-employee, shall interfere, interrupt, or disrupt the normal work duties of other employees. The FOP further agrees not to conduct FOP business during working hours except to the extent specifically authorized herein.
- (b) The representatives shall be permitted reasonable time to investigate, present, and process formal grievances on the Employer's property without the loss of pay during their regular working hours, provided that in each and every instance where such time is required, only one representative is assigned to a grievance, and the length of time and the time period within the working hours shall be agreed upon previously by the FOP representative and the supervisor and/or the Chief of Police. The representatives shall make all reasonable efforts, however, to process all grievances during non-working hours.
- (c) The FOP employee official shall cease unauthorized activities immediately upon the request of the Police Chief, City Manager, or Assistant City Manager.

Section 3.5 An FOP employee representative who is on duty during, and participates at, a scheduled meeting between the Employer and the FOP to negotiate a new collective bargaining agreement shall receive his regular pay for the regularly scheduled on-duty hours spent at that meeting and shall receive no additional compensation. An FOP employee representative who is off duty during, and participates at, a scheduled meeting between the Employer and the FOP to negotiate a new collective bargaining agreement shall receive no compensation for the off-duty hours spent at that meeting.

## **ARTICLE 4** **DUES DEDUCTION**

Section 4.1 The Employer agrees to deduct regular FOP dues and fees at such intervals as the FOP notifies the Employer as proper, but no more often than once each month, for any bargaining unit member voluntarily signing a written authorization for dues deduction. The bargaining unit member shall submit the voluntarily signed written dues deduction authorization to the Employer's payroll officer. This dues deduction shall be given effect until the employee revokes the authorization by written notice to the Employer's payroll officer or until the employee's employment with the City is terminated. The Employer shall forward a check, for the aggregate of the dues and fees deducted, to the FOP's designated financial officer, together with an itemized list of the members for whom dues deductions were made.

Section 4.2 The FOP hereby indemnifies and holds the City and its agents and employees harmless from any and all claims of any nature arising out of or resulting from the operation of this deduction procedure and the making of the deductions and subsequent payments pursuant thereto and from any and all costs and expenses arising out of any such claim(s). Such costs and expenses shall include but not be limited to court costs, attorney fees, witness fees and expenses,

court judgments and/or court awarded damages and all other costs associated with the defense or prosecution of any such claim(s).

**ARTICLE 5**  
**FAIR SHARE FEE**

Section 5.1 Bargaining unit employees who are not members in good standing of the FOP shall, as a condition of continued employment within sixty (60) days of employment or the effective date of this Agreement, whichever is later, pay to the recognized FOP lodge a Fair Share Fee. The Fair Share Fee shall be established to cover the employee's pro rata share of: (1) the costs incurred by the FOP in negotiating and administering this Agreement and of settling grievances and disputes arising under this Agreement; and (2) the FOP's expenses incurred for activities normally and reasonably incurred for activities normally and reasonably employed to effectuate its duties as the exclusive representative of the employees in the bargaining units covered by this Agreement. Fair Share Fees shall be deducted and remitted during the same period as dues, provided, the employee has sufficient wages during the applicable pay period to equal the deduction. The FOP shall notify the Employer, once each year for the term of this Agreement, of the amount of the Fair Share Fee. In the event that any employee who is required to pay a Fair Share Fee to the FOP objects to the propriety of the FOP's use of such fees, the entire amount of the objecting employee's fee shall be placed by the Employer in an interest-bearing escrow account, pending the exhaustion of the FOP's internal rebate procedure and any determination by the State Employment Relations Board, pursuant to the provisions of O.R.C. 4117.09(C).

Section 5.2 It is specifically agreed that the Employer assumes no obligation, financial or otherwise, arising out of the provisions of this Article, and the FOP hereby agrees that it will indemnify and hold the Employer harmless from any claims, actions or proceedings by an employee arising from deductions made by the Employer hereunder. Once the funds are remitted to the FOP, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the FOP.

**ARTICLE 6**  
**NON-DISCRIMINATION**

Section 6.1 The provisions of this Agreement shall be applied equally and without favoritism to all employees in the bargaining unit. There shall be no discrimination as to age, sex, marital status, race, color, creed, national origin, handicap, or political affiliation. The FOP shall share with the Employer the responsibility for applying this provision of the Agreement.

Section 6.2 Both parties recognize and agree that affiliation with the FOP is at the discretion of each individual employee. Employees in the classifications comprising the bargaining unit covered by this Agreement have the right to participate or not participate in the FOP as they see fit. Neither party to this Agreement shall exert any pressure on any employee as regards such matters.

Section 6.3 Wherever the male gender is used in reference in this Agreement, it shall be construed to include male and female.

**ARTICLE 7**  
**MANAGEMENT RIGHTS**

Section 7.1 The FOP recognizes the City's exclusive right to manage its affairs and the City retains and reserves unto itself all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the Charter of the City of Blue Ash and the laws and constitutions of the State of Ohio and of the United States. Further, all rights which ordinarily vest in and are exercised by employers except such as are specifically relinquished herein are reserved to and remain vested in the City, including but without limiting the generality of the foregoing:

Section 7.2 The right to manage its affairs efficiently and economically, including the determination of quantity, quality, frequency and type of services to be rendered; the determination, purchase and control of the types and numbers of materials, machines, tools and equipment to be used; the selection of the location, number and type of its facilities and installations; and the addition or discontinuance of any services, facilities, equipment, materials or methods of operation.

Section 7.3 The right to hire and set the starting rate of pay for new employees not covered by this Agreement. The right to determine the starting and quitting time and the number of hours to be worked, including overtime and lunch; and to determine the amount of supervision necessary, work schedules, and the method or process by which work is performed, to the extent that it is in compliance with all other articles of this Agreement.

Section 7.4 The right to contract, subcontract and purchase any or all work, processes or services or the construction of new facilities or the improvement of existing facilities; to adopt, revise and enforce working rules and carry out cost control and general improvement programs; and to establish, change, combine or discontinue job classifications and prescribe and assign job duties, content and classification and establish wage rates for any new or changed classifications.

Section 7.5 The right to initially determine the existence or non-existence of facts which are the basis of the Management decisions; to establish or continue policies, practices or procedures for the conduct of the Police Department and its services to the citizens of Blue Ash, and, from time to time, to change or abolish such practices or procedures; the right to determine and, from time to time, redetermine the number, locations and relocations and types of its employees or to discontinue any performance of service by employees of the City of Blue Ash; to determine the number of hours per day or week any operation of the Police Department may be carried on; to select and determine the number and types of employees required; to assign such work to such employees in accordance with the requirements determined by Management authorities; to establish training programs and upgrading requirements for employees within the Department; to establish and change work schedules and assignments; to transfer, promote or demote employees, or to layoff, terminate or otherwise relieve employees from duty for lack of work or other legitimate reasons; to determine the facts of lack of work or other legitimate reasons; to continue, alter, make and enforce reasonable rules for the maintenance of discipline; to suspend, discharge, or take such measures as the Management may determine to be necessary for the orderly and efficient operation of the Police Department of the City of Blue Ash, subject to the terms of this Agreement provided, however, nothing herein shall prevent employees from presenting their grievances for an alleged violation of any Article or specific term of this Agreement. This section is not intended to prohibit the FOP from bargaining about matters affecting the wages, terms, or conditions of employment of bargaining unit employees.

**ARTICLE 8**  
**DISCIPLINE**

Section 8.1 The Employer may take disciplinary action against any employee in the bargaining unit only for just cause.

Section 8.2 Such disciplinary action, not necessarily listed in order of occurrence, may take the following forms. The City reserves the right to determine the level of discipline based upon the facts and circumstances of each incident:

- a. Documented oral reprimand;
- b. Written reprimand;
- c. At the option of the Police Chief, with concurrence of the employee, loss of vacation leave; or compensatory time, ~~or holiday compensatory time~~ not to exceed twenty-five and one-half hours;
- d. Suspension without pay
- ~~e. Temporary reassignment, not to exceed sixty (60) calendar days;~~
- e. Change in classification;
- f. Discharge from employment.

Section 8.3 Refusal to submit to a polygraph examination shall not be grounds for disciplinary action.

Section 8.4 Employees may be required to take a drug or alcohol test if the City has reasonable suspicion that the employee is under the influence of drugs or alcohol. Employees may also be required to take random drug and/or alcohol tests and may be required to take drug and/or alcohol tests following a workplace accident or injury. These tests shall be performed at a reputable testing facility. Refusal to submit to a test will be treated the same as a positive test result and may be just cause for discipline up to and including termination. Such testing will be done using accepted and recognized procedures, as outlined in the departmental policy, including procedures to protect individual privacy.

Section 8.5 Discussions regarding behavior or corrective action shall be conducted in a professional manner between the employer and the employee.

**ARTICLE 9**  
**PREDISCIPLINARY CONFERENCE**

Section 9.1 Any employee facing disciplinary action resulting in more than a written reprimand but not more than a three-day suspension without pay may request that said disciplinary action be reviewed by the City Manager or designee. The employee must submit a written request to the City Manager within 48 hours of the employee's receipt of written notice of recommended disciplinary action. The City Manager or designee shall meet with the employee, and any other employee or individual deemed necessary, and review the facts, and make a final written determination regarding the recommended disciplinary action. Said meeting shall take place prior to the imposition of the recommended disciplinary action. The employee may request the presence of one employee FOP representative at the meeting. Nothing in this section prevents the Chief of Police from suspending an employee with pay pending the predisciplinary conference.

Section 9.2 In the event the Chief of Police orders an internal investigation, the employee who is the subject of the investigation will be notified, prior to being interviewed, of their right to FOP/OLC representation, the basic facts of the incident known at the time, and the potential that discipline may result.

Section 9.3 Anytime the Employer or designee determines that an employee may be disciplined for cause (including only suspensions without pay for more than three days, reductions or termination), a predisciplinary conference will be scheduled with the City Manager or designee to give the employee an opportunity to offer an explanation of the alleged conduct. The employee shall receive a list of the charges and their particulars at the time the employee is originally notified in writing that disciplinary action is being recommended for the alleged improper conduct.

Section 9.4 The employee may be represented at the predisciplinary conference by a FOP/OLC representative. The employee and the Employer shall provide a list of witnesses to each other as far in advance as possible, but not later than twenty-four (24) hours prior to the predisciplinary conference. It is the responsibility of each party to notify their witnesses that their attendance is desired.

Witnesses who are reasonably necessary to the resolution of the predisciplinary conference and who are employees of the City of Blue Ash, shall be allowed to attend the conference. Any employee who is on duty and is requested by the FOP or the employee facing the discipline, to attend the conference shall be released from duty to attend. Any employee who is off duty and is requested to attend the conference by the FOP or the employee facing the discipline shall not be compensated by the City.

Any member who is off duty and called as a witness by the City shall be compensated based on minimum call in overtime pay or straight overtime pay as applicable.

The employee may elect to have one FOP Representative at this conference. If the FOP Representative is on duty he will be released from duty to attend. If the representative is off duty he will not be compensated by the City.

Section 9.5 The employee or his representative will be permitted to confront and cross examine witnesses. A written report will be prepared concluding whether or not the recommended discipline is appropriate. The Employer, in all cases, will decide what discipline, if any, is appropriate. A copy of the written report will be provided to the employee within seven (7) calendar days following its preparation.

Section 9.6 Any employee who may be subject to disciplinary action (“charged employee”) and any employee being questioned regarding the charged employee shall be apprised of the following:

- a) Failure to respond or respond truthfully to any questioning may result in disciplinary action;
- b) The charged employee shall receive a list of the charges and their particulars not less than forty-eight (48) hours prior to the scheduled predisciplinary conference;
- c) The charged employee shall be apprised of their right to representation. Upon mutual agreement, the parties may extend the time for holding the hearing;

- d) The charged employee shall be apprised by the Police Chief as to whether or not the employee has been suspended pending the outcome of the predisciplinary conference;
- e) The charged employee may, in writing, waive the predisciplinary conference and/or submit a written statement on their own behalf.

Section 9.7 Predisciplinary conferences shall be recorded and a charged employee shall be entitled, upon request, to a copy of the recordings not later than seventy-two (72) hours following the close of the predisciplinary conference.

## ARTICLE 10 GRIEVANCE PROCEDURE

Section 10.1 The term “grievance” shall mean a difference or dispute between the parties or an employee concerning the application, meaning or interpretation of the expressed terms of this Agreement, unless otherwise specifically excluded. It is not intended that the grievance procedure be used to effect changes in the Articles of this Agreement.

Section 10.2 In all grievance proceedings the employee has the right to FOP/OLC representation or to have no representation.

Section 10.3 All grievances must contain the following information to be considered and must be filed using the grievance form mutually agreed to by both parties:

- a. Aggrieved employee’s name and signature;
- b. Aggrieved employee’s classification;
- c. Date grievance was filed in writing;
- d. Date and time grievance occurred;
- e. Where grievance occurred;
- f. Complete description of the incident giving rise to the grievance;
- g. Articles and sections of Agreement violated;
- h. Desired remedy to resolve grievance.

All grievances shall be reduced to writing, containing a full statement of particulars, and be filed on forms mutually agreed to by both parties as set forth in this Article.

At any step of this grievance procedure, the FOP shall have the final authority in respect to any aggrieved member to decline to process further a grievance, if in the judgment of the FOP, such grievance lacks merit or justification under the terms of this Agreement, or has been adjusted or rectified under the terms of this agreement to the satisfaction of the FOP. No provision in the agreement shall be interpreted to require the FOP to represent a member in any stage of the grievance procedure if it considers the grievance to be without merit.

Section 10.4 All grievances must be processed at the proper step in the progression in order to be considered at the subsequent steps. If an employee, the Employer, or the FOP fails to comply with the time limits set forth below, the grievance shall be considered withdrawn, and thereafter such grievance may not be presented for consideration or be made the basis for any action under this Agreement or otherwise. Any employee or the FOP may withdraw a grievance at any point

by submitting in writing a statement to that effect, or by permitting the time requirements at any step to lapse without further appeal. Any grievance not answered by the Employer's representatives within the stipulated time limits may be advanced by the employee to the next step in the grievance procedure. All time limits on grievances may be extended upon the mutual written consent of the parties.

Section 10.5 All grievances shall be settled in the following manner:

Step 1. If the grievance involves a loss of pay issue, then the aggrieved employee and representative shall proceed directly to Step 2 and present a written grievance to the Chief of Police or designee within seven (7) calendar days of the date on which the grievance arose or which the employee became aware of the grievance or should have been aware. If, however, the grievance does not involve a loss of pay issue, then the aggrieved employee and representative shall orally present the facts to the employee's immediate supervisor, within seven (7) calendar days of the date on which the grievance arose or which the employee became aware of the grievance or should have been aware. An oral discussion form will be signed by the aggrieved employee and representative and the immediate supervisor to reflect the date of the oral grievance presentation. The immediate supervisor shall render a decision within seven (7) calendar days from the date on which the grievance was submitted, and present same to the aggrieved employee and representative. Once the grievance has been reduced to writing, no material change may be made in the subject matter of the grievance.

Step 2. If the grievance is not resolved in Step 1, the employee and representative shall present a written grievance to the Chief of Police or designee within seven (7) calendar days from the response to the grievance from the employee's immediate supervisor. The Chief of Police or designee shall respond in writing to the grievance within seven (7) calendar days from receipt of the grievance.

Step 3. If the grievance is not resolved in Step 2, the employee and representative shall present the written grievance to the City Manager or designee within seven (7) calendar days from the response to the grievance from the Chief of Police. The City Manager or designee shall render a written decision within fourteen (14) calendar days of receipt of the grievance form. The City Manager (or designee's) decision concerning grievances regarding documented oral reprimands and written reprimands shall be final and binding and such grievances shall not be processed further and shall not be arbitrated.

Step 4. If the grievance is not resolved in Step 3 and involves disciplinary action more severe than a written reprimand or a contract issue, the employee and representative within fourteen (14) calendar days from receipt of the City Manager's decision regarding the grievance may file, with the FOP's approval, a notification of arbitration. Within ten (10) calendar days of a request for arbitration, an FOP representative and the City Manager or designee shall attempt to mutually agree to an arbitrator. If the City and the FOP cannot mutually agree upon an arbitrator in a specific case, then the parties shall utilize the arbitrator selection procedure set forth by the American Arbitration Association.

Section 10.6 Unless otherwise agreed to by the City and the FOP, the Arbitrator shall render a decision in writing within thirty (30) calendar days of the hearing. If such decision is in conformity with the powers granted the Arbitrator herein, it shall be final and binding upon the parties. The sole function of the Arbitrator shall be to interpret the express written provisions of

the Agreement and apply them to the specific facts presented at the hearing. The Arbitrator shall have no power or authority to change, amend, modify, add to, delete from, or otherwise alter this Agreement.

Section 10.7 The costs of the proceedings, including the expenses and compensation of the Arbitrator, and the rental of facilities, (if not on the Employer's premises) shall be borne equally. If either party requests a transcript and exhibits for the Arbitrator, it shall be made and shall be the official record of the hearing. The cost of such transcript shall be borne by the party requesting it, except where the other party requests a copy of the transcript in which case the cost of the transcript shall be borne equally by both the City and the FOP. All other expenses shall be borne by the party incurring them and neither party shall be responsible for the expenses of the witnesses called by the other.

Section 10.8 Grievances may be initiated, within the prescribed time limits of Section 10.5, Step 1, at the step which corresponds to the level of supervision where the alleged violation of the contract occurred.

Section 10.9 A grievance may be brought by any member of the bargaining unit. Where a group of bargaining unit members desires to file a grievance involving a situation affecting each member in the same manner, one member selected by such group may process the grievance as a class action grievance, provided each employee desiring to be included in the class action grievance signs said grievance.

Section 10.10 The FOP may file grievances claiming violations of the recognition clause, the dues deduction clause, or any claimed violation of contract rights which accrue solely to the FOP as a labor organization and not to individual employees. Such grievances shall be initially filed within the time limits of Section 10.5, Step 1, but will be filed directly with the City Manager.

Section 10.11 Witnesses who are reasonably necessary to the resolution of grievances, and who are employees of the City of Blue Ash, shall be allowed to attend any hearing resulting from the filing of a grievance. Any member who is on duty and required by either the City or the FOP to attend a hearing shall be released from duty to attend. Any member who is off duty and is called as a witness by the FOP, or is subpoenaed to attend a hearing at the request of the FOP, shall not be compensated by the City.

Any member who is off duty and called as a witness by the City shall be compensated based on minimum call in overtime pay or straight overtime pay as applicable.

If the FOP Representative is on duty and requested by the employee to attend a grievance hearing the representative will be released from duty to attend. An off duty representative will not be compensated by the City.

An employee facing a disciplinary action that is the subject of the grievance who is on duty shall be released from duty to attend the hearing. An employee facing disciplinary action who is off duty at the time of the hearing shall not be compensated by the City.

The Grievant, or representative, may not submit into evidence in any disciplinary grievance or disciplinary arbitration proceeding documents or testimony related to the City or Department of Police's action or inaction in any disciplinary case that pre-dates a period more than three (3)

years prior to the date of the alleged misconduct or breach of discipline alleged against the Grievant.

Section 10.12 The City, through its City Manager or his designee, may file grievances claiming violations of the Agreement by the FOP as a labor organization. Such grievances shall be initially filed within the time limits of Section 10.5, Step 1, but will be filed directly with the chief employee representative of the FOP.

Section 10.13 Nothing in this Section prevents either party from seeking enforcement of any arbitration decision in a court of competent jurisdiction.

Section 10.14 In cases of emergency declared by the federal, state, or local government, the time limits for the processing of grievances shall automatically be suspended until further notice from the City Manager or designee.

Section 10.15 Any employee charged with, or under indictment for, a felony, who is not disciplined or discharged by the Employer, may be placed on a leave of absence without pay until resolution of the court proceedings. An employee may use accrued but unused vacation or compensatory time during the leave. An employee found guilty by the trial court of a felony may be summarily discharged and shall have no recourse through the grievance or arbitration procedures. If the employee is found not guilty, the employee's lost wages and seniority will be reinstated. Where the charges are reduced to a misdemeanor, the employee is acquitted or charges are not pursued, the employee may be subject to discipline pursuant to the terms of this agreement. The employer shall continue to pay the employee's insurance premiums as provided for in this Agreement during the unpaid leave of absence.

## ARTICLE 11 PROBATIONARY EMPLOYEES

Section 11.1 Each new employee shall be required to serve a probationary period of twelve (12) months. A newly hired probationary employee may be terminated at any time during his probationary period and shall have no right of appeal under this Agreement. Upon satisfactory completion of the probationary period, an employee shall be given regular full-time status.

Section 11.2 Employees placed in a different classification within the bargaining unit shall be required to serve a probationary period of up to twelve (12) months with quarterly evaluations during this probationary period. If an employee's performance is unsatisfactory, the employee shall be returned to their former position without prejudice.

## ARTICLE 12 PERSONNEL FILES

Section 12.1 Each employee may inspect their own personnel file maintained by the Employer during the employee's off-duty hours at a time mutually acceptable and shall, upon request, receive a copy of any documents contained therein. If an employee needs less than fifteen (15) minutes to review their personnel files, it may be done during duty hours provided it does not interfere with the work schedule for that day. An employee shall be entitled to have an off-duty representative of their choice to attend such review.

Section 12.2 If an unfavorable statement or notation is in the file, the employee shall be given the right to place a statement of rebuttal or explanation in the file within seven (7) calendar days of becoming aware of the placement of the document in the file. No anonymous material of any type shall be included in the employee's personnel file.

Section 12.3 Records of oral and/or written reprimands shall not be utilized to determine the appropriate level of subsequent discipline two (2) years from the date of their issuance provided no intervening disciplinary action has occurred. Records of suspension shall not be utilized to determine the appropriate level of subsequent discipline three (3) years from the date of their issuance provided no intervening disciplinary action has occurred.

Section 12.4 The City shall not release personnel records unless required by law, court order, or subpoena.

### **ARTICLE 13** **SENIORITY**

Section 13.1 "Seniority" shall be computed on the basis of uninterrupted length of continuous service with the employer in the classification of Dispatcher. A termination of employment lasting less than thirty-one (31) days shall not constitute a break in continuous service. If continuous service is broken and the employee is not reinstated, the employee loses all previously accumulated seniority.

Section 13.2 An approved leave of absence does not constitute a break in continuous service provided the employee follows the proper procedure for such leave and returns to active service immediately following the expiration of the approved leave.

Section 13.3 Employees laid off shall retain their seniority for a period of eighteen (18) months from the date of layoff.

### **ARTICLE 14** **LAYOFF AND RECALL**

Section 14.1 Layoffs in the Dispatcher classification shall be in the inverse order of seniority, with the least senior Dispatcher being laid off first.

Section 14.2 When the Employer determines that a long-term layoff or job abolishment is necessary, it shall notify the affected employees ten (10) calendar days in advance of the effective date of the layoff or job abolishment. Employees will be notified of the Employer's decision to implement any short-term layoff, lasting seventy-two (72) hours or less, as soon as possible. The Employer, upon request from the FOP, agrees to discuss with FOP representatives the impact of the layoff on bargaining unit employees.

Section 14.3 Employees who are laid off shall be placed on a recall list for a period of eighteen (18) months. If there is a recall, employees who are still on the recall list shall be recalled in the inverse order of their layoff. Any recalled employee requiring additional training to meet the position qualifications in existence at the time of recall must satisfactorily complete the additional training requirements within twelve (12) months of recall. Any training required in this subsection shall be at the Employer's expense and time.

Section 14.4 Notice of recall shall be sent to the employee by certified mail. The employer shall notify employees of any recall by mailing the recall notice by certified mail, return receipt requested, to the last mailing address provided by the employee.

Section 14.5 The recalled employee shall have ten (10) calendar days following the date of mailing of the recall notice to notify the Employer of the intention to return to work and shall have fourteen (14) calendar days following the date of mailing of the recall notice in which to report for duty, unless a different date for returning to work is otherwise specified in the notice or mutually agreed upon, in writing, by the parties.

## **ARTICLE 15** **NO STRIKE/NO LOCKOUT**

Section 15.1 During the life of this Agreement or any extensions hereof, the FOP, on behalf of the employees comprising the bargaining unit, agrees that so long as this Agreement or any extensions hereof are in effect, there shall be no strikes (including sympathy strikes, unfair labor practice strikes or economic strikes), slowdowns, walkouts, refusal to perform assigned duties, sit downs, picketing, boycotts or any activities which interfere, directly or indirectly, with the operation of the City. Any employee who is absent from work without permission, or abstains wholly or in part from the full performance of the employee's duties in a normal manner without permission, on the date or dates when a strike occurs, shall be presumed by the Employer to have engaged in such a strike on such date or dates.

Section 15.2 In the event any employee covered hereunder is engaged in any violation of Section 15.1 above, the FOP shall, upon notification by Management, immediately order such employee or employees to resume normal work activities and shall publicly denounce any violation of Section 15.1. The FOP, its officers, agents, representatives and members and all other employees covered by this Agreement, shall not, in any way, directly or indirectly, authorize, assert, encourage, participate in, sanction, ratify, or lend support to any strike or other activity in violation of this Article. The FOP further agrees not to oppose any injunctive relief sought by the City to return employees to duty and cease the activities referred to in Section 15.1.

Section 15.3 Any strike or any other prohibited activity entered into or called for by the FOP shall constitute a breach of this Agreement and abrogate the obligations of the Employer hereunder.

Section 15.4 The City shall have the right to impose discipline up to and including discharge for any employee who authorizes, encourages, participates in, sanctions, or ratifies any strike or other activity in violation of Section 15.1.

Section 15.5 During the life of this Agreement, the Employer shall not cause, permit, or engage in any lockout or otherwise prevent employees from performing their regularly assigned duties where an object thereof is to bring pressure on the employees or an employee organization to compromise or capitulate to the Employer's terms regarding a labor relations dispute. Any violation of this section by the City shall constitute a breach of this Agreement and abrogate the obligations of the FOP and the employees under this Article.

Section 15.6 Nothing in this Article shall be construed to limit or abridge the FOP's or the Employer's right to seek other available remedies provided by law to deal with any violation of Ohio Revised Code Section 4117.11(A) or (B).

## ARTICLE 16 WORK PERIOD AND OVERTIME

Section 16.1 The standard work period for all full-time employees shall be **forty (40) eighty (80)** hours in a **two (2) one (1)** week period. ~~beginning with the start of the first shift, watch or relief on Saturday and ending with the conclusion of the second Friday following the Saturday beginning the work period. For employees whose routine does not include rotating shifts, watches, or reliefs and weekend duty, the standard work period begins at 12 a.m. and concludes at 12 a.m. on the second Saturday following the one on which it began.~~

Section 16.2 The authority to establish work schedules, standard work periods, and standard work days shall be vested in the City Manager; the City Manager may at his/her discretion delegate this authority to supervisory personnel. **The City does not guarantee a minimum number of hours.** The authority to grant overtime compensation shall be vested in the City Manager or designee, provided that overtime compensation not be allowed except for work in excess of the standard work period and standard work day. Overtime compensation shall be allowed employees in these instances only if said work has the prior approval of the City Manager or of a supervisory employee to whom the City Manager has delegated scheduling authority.

Section 16.3 No employee shall work in excess of seventeen (17) hours within a twenty-four (24) hour period except under exigent circumstances. An employee having worked seventeen (17) hours within a twenty-four (24) hour period must be off duty for a minimum of seven (7) consecutive hours before being allowed to return to work.

Section 16.4 Overtime compensation shall be monetary compensation at the rate of one and one-half times the employee's regular hourly rate of pay that is in effect at the time overtime compensation is earned. Employees may elect to take all or any part of overtime hours in the form of compensatory time, in lieu of overtime pay. Compensatory time shall be compensated at the rate of one and one-half (1-1/2) hours off for each one (1) hour of overtime worked. Compensatory time may be earned by an employee, but only to a maximum of one hundred and sixty (160) total hours in a year (two hundred hours (200) with the carry over). In the event an employee earns a total of one hundred and sixty hours (160) of compensatory time, then any future overtime hours must be compensated with overtime pay. Employees may carry over forty (40) hours to the next pay plan year. Amounts accumulated over the agreed-upon carryover limit shall be paid to the employee in conjunction with the final paycheck of the current pay plan year. Employees may sell back their entire compensatory time balance to the City. When an employee desires to use compensatory time off that has accumulated, the employee must submit the request not later than twenty-four (24) hours before it will be used, unless the Chief of Police or designee waives this requirement. The use of compensatory time off shall be scheduled and granted, at a time mutually agreed to between the employee and Employer. If the employee and the Employer do not mutually agree to the time for the employee to use compensatory leave time, the employee may elect to receive pay for the hours requested, or the employee may withdraw the compensatory leave time request. If the employee elects to receive pay for the hours requested the pay will be at the employee's regular rate of pay and will be paid in the current pay period.

Section 16.5 There shall be no pyramiding of overtime.

Section 16.6 Upon request of an employee and with the prior approval of the Employer, an employee may work a scheduled day off in exchange for an additional day off to be scheduled, without receiving any additional compensation.

Section 16.7 "Active pay status" includes all hours actually worked, vacation time, paid sick leave, injury leave, compensatory time, and excludes court time and call-out minimums.

Section 16.8 With the prior approval of the Employer, an employee may exchange days off or work shift assignments with another employee. Such exchanges shall not affect the active pay status of either employee, except that an employee who works an exchange and is required to work overtime shall receive the overtime compensation.

Section 16.9 The Employer reserves the right to require any and/or all employees to work overtime when the operational needs of the department requires it.

Section 16.10 Nothing in this article requires the City to offer overtime to bargaining unit employees. In the event the City decides to offer overtime opportunities, Subject to the other provisions of this Article, the City it will attempt to distribute overtime opportunities as follows:

- A. A list shall be kept current, posted, and updated at the end of every pay period with the number of overtime hours worked and overtime hours refused by each employee.
- B. Holiday overtime will not be added to the running overtime total.
- C. The City will offer overtime first to the **eligible** employee with the fewest hours of running overtime. **If an entire shift of overtime is offered, the employee may accept the entire shift or may accept the first half of the shift or the second half of the shift. Overtime offers of less than an entire shift must be accepted or declined in its entirety.** If the employee does not accept the overtime **then** the City will offer the overtime by moving through the list of employees **not scheduled the day of the shift need**, beginning with the employee with the fewest hours of running overtime, until someone accepts the overtime.
- ~~D. If all the employees refuse the overtime, then the City will offer the overtime in a similar manner by offering "book-end" overtime shifts to employees working the proceeding and succeeding shifts as follows:~~
  - ~~1. The City will offer the beginning one half of the unfilled shift first to the employee working the proceeding shift that has the fewest hours of running overtime. If that employee refuses the overtime, then the City will fill the first one half of the shift needed by moving through the list of employees on the preceding shift, beginning with the employee on the shift with the fewest hours of running overtime, until someone accepts the overtime.~~
  - ~~2. The City will offer the second one half of the shift need first to the employee working the succeeding shift that has the fewest hours of running overtime. If that employee refuses the overtime, then the City will fill the second one~~