

## ARTICLE ELEVEN

### INVESTIGATIONS/DISCIPLINE

11.1 The Employer may conduct investigations of alleged misconduct by an employee and may require a member of the bargaining unit to submit written reports, either by general or specific order. A member of the bargaining unit must, upon direction of the Chief of Police or designee respond completely and truthfully to all questions asked which relate to the alleged misconduct. The responses by the employee, either written or oral, shall be subject to the following:

- A. Reports or responses to questions made by an employee in the course of an investigation of misconduct, upon order of the Chief of Police, may not be used in a criminal proceeding against the employee who made the report or responded to the question.
- B. The reports and responses may be used by the Employer in taking appropriate actions and in defending such action with respect to discipline or discharge of the charged employee.
- C. An employee under investigation for commission of misconduct, which would constitute a crime, shall be advised, prior to questioning, whether the investigation is criminal or for possible discipline. An employee who is under investigation for misconduct which is not being pursued as criminal conduct will be informed, prior to questioning, that the employee is the subject of an investigation and of, the nature of the suspected misconduct. The employee has the right to have union representation of choice present during the questioning. The employee, upon request, may obtain postponement of the questioning for a reasonable period not to exceed forty-eight

(48) hours in order to arrange for representation to be present for the questioning if the employee so desires.

- D. Failure by an employee to complete the report or to respond to a relevant question may be deemed refusal and may result in disciplinary action.
- E. Questioning of a bargaining unit member accused of misconduct shall be conducted during the employee's working hours unless it is impractical to do so because of the employee is on sick leave, vacation, or other leave of absence. Questioning sessions shall be for reasonable periods of time and employees shall be permitted to attend to their physical necessities.
- F. Questioning of bargaining unit members in the course of disciplinary investigations shall be tape recorded by the Employer at the request of either party if recording equipment is available at the time of the interrogation or interview. The bargaining unit member shall be supplied a copy of any tape recording made by the Employer. An interrogation or interview shall not be delayed because of the unavailability of recording equipment.

11.2 The parties recognize that discipline is essential to the operation of the City and agree that fair discipline is necessary for the public interest and the morale and welfare of the employees. The object of these provisions is to assure that the relevant facts are fairly developed so that an informed decision can be made by the Employer regarding whether and the extent to which discipline shall be imposed. All disciplinary action shall be taken and governed exclusively by the provisions set forth in this Article.

11.3 No bargaining unit member shall be disciplined by written warning, written

reprimand, a reduction in pay or position, suspension or dismissal except for just cause. Disciplinary offenses shall include, but not be limited to: dishonesty, bribery, misfeasance, malfeasance, nonfeasance, misconduct in office, neglect of duty, immoral conduct, habitual drunkenness, illegal use of controlled substances, incompetence, insubordination, refusal to obey orders given by proper authority, discourteous treatment of the public and violation of divisional standards of conduct on and off duty.

11.4 Forms of disciplinary action shall be written warning; written reprimands; suspension without pay, demotion or discharge. Discipline shall be applied progressively, but it is understood that some serious violations may warrant “a greater penalty up to” immediate discharge. In following the principle of the punishment should fit the crime,” the Employer will take into consideration the nature of violation, the Employee’s record of discipline and the Employee’s record of performance and conduct.

11.5 When the Employer, upon conclusion of an investigation determines that an employee may be guilty of an act or omission for which disciplinary action is warranted the following steps shall apply:

- A. The employee will be promptly notified of the accusations of conduct for which discipline is contemplated and the employee shall be advised of the evidence against the employee and nature of the alleged conduct, the time and place of the conference with the Chief of Police, and the right to bring a F.O.P. representative to the conference.
- B. At the conference with the Chief of Police, the charges will be stated to the employee and the employee shall have an opportunity to offer an explanation,

defense, or mitigation circumstances.

- C. 1. Within fifteen (15) calendar days after the conference, the Chief of Police shall do one of the following:
  - (a) Dismiss the allegations as unfounded without record; or
  - (b) Impose appropriate discipline of record.
- 2. For purposes of this Article, "day" means a calendar day.
- D. If the discipline imposed is a reprimand, the employee may appeal through the grievance procedure up to Step Three.
- E. If the disciplinary action consists of a suspension or demotion the employee shall then have the right to submit the matter to arbitration in accordance with the grievance procedure starting at Step 3.
- F. Upon request of either party, made at a reasonable time, prior to a hearing before the City Manager; a party may discover the identity of any witness and tangible item, which will be offered in evidence at the hearing.

11.6 Drug Testing. All drug testing performed on employees shall be conducted in accordance with the following policy.

I. PURPOSE OF DRUG TESTING PROGRAM

- A. The Police Department has a legal responsibility and management obligation to ensure a safe work environment; as well as paramount interest in protecting the public by ensuring that it's employees have the physical stamina and emotional stability to perform their assigned duties. A

requirement for employment must be an employee who is free from drug dependence or illegal drug use.

- B. A reasonable drug testing program must establish a balance between the rights of the employee and maintaining a police agency free of illegal drugs. Liability could be found against the Department and the employee if we fail to address ourselves with diligence to ensure that employees can perform their duties without endangering themselves or the public.

## II. DEFINITIONS

- A. Drug Test - A urinalysis test administered under an approved conditions and procedures to detect drugs.
- B. Reasonable Suspicion - An apparent state of facts and/or circumstances found to exist upon inquiry by the supervisor, which would induce a reasonably intelligent prudent person to suspect the employee was under the influence of drugs/narcotics.

## III. GENERAL RULES

- A. Department employees shall not take any narcotic or other dangerous drug unless prescribed by a person licensed to practice medicine. Employees who are required to take prescription medicine shall notify their immediate supervisor of the medication prescribed. Any statutorily defined illegal use of drugs by an employee, whether on or off duty, is prohibited.
- B. All property belonging to the Department, including the entire premises of the department is subject to inspection at any time without notice as there is

no expectation of privacy.

1. Property includes, but is not limited to, police owned vehicles, desks, files, and storage lockers.
  2. Employees assigned lockers (including those that may be locked by the employee) are subject to inspection by the employee's supervisor after reasonable advance notice (unless the requirement for notice is waived by the Chief of Police) and in the presence of the employee.
- C. All police employees who have a reasonable basis to suspect that another employee is illegally using drugs or narcotics shall immediately report the facts and circumstances of such use to their supervisor.
- D. Failure of any police employee to comply with the intent or provisions of this section of the Agreement constitutes grounds for disciplinary action, including dismissal, or other action determined appropriate by the Chief of Police. Refusal by a police employee to take a required test, i.e.; a test that is ordered based upon reasonable suspicion as defined in paragraph II (B) above, or under circumstances described in paragraphs IV, (A) and (B), below, or follow this section of the Agreement, will result in immediate relief from police duties pending disposition of any administrative personnel action.
- A refusal occurs if the employee fails to agree to submit to a required test within two (2) hours of receiving the order.
- IV. POLICY-DRUG TESTING/URINALYSIS
- A. Employees of the department shall be required to submit to a test for drug or

narcotic use as outlined below:

1. The Chief of Police may order a drug test when the Chief has reasonable suspicion of drug use by an employee due to one or more of the following criteria: (1) incapable to perform assigned duties, (2) reduced productivity, (3) excessive vehicle accidents, (4) high absenteeism, (5) other behavior inconsistent with previous performance, or (6) the employee is using, has possession of, has sold or is under the influence of drugs (illegal or prescribed), or narcotics. The evidence shall be made available to the employee.
2. A police supervisor may order a drug test:
  - a. Where the supervisor has reasonable suspicion that an employee is using, or is under the influence of drugs or narcotics;
  - b. Where the employee uses force which results in hospital admission, or property damage.
  - c. Where there is on-duty injury to the employee or another person, which requires hospital admission.
3. The employee shall be advised of circumstances surrounding the order to test under 2 (a-c) above.
4. Whenever practical, prior approval should be obtained from the Chief of Police before the supervisor orders the test.
5. A supervisor who orders a drug test and has reasonable suspicion of

an employee's usage or possession, or that an employee is under the influence of drugs, shall forward a report containing the facts and circumstances directly to the Chief of Police.

6. Test results reporting illegal drugs, narcotics, the use of controlled substances without a lawful prescription, or the abuse of prescribed drugs, will be submitted as a part of a written complaint by the supervisor ordering the test, consistent with Section IV-A-5 above requesting departmental action.

B. In the event that an employee is required to submit to a drug test, the following guidelines should be observed:

1. The employee shall be granted enough time to change from uniform to civilian clothing.
2. The employee will be transported to the designated testing center by a supervisor.
3. The employee may request to have another police department employee present for the transportation and test, provided said individual is off duty and reasonably available.
4. A controlled test will be conducted by personnel of the testing site.
5. Subject to the rules of the testing authority the employee may have an observer for the test.
6. The sample will be properly labeled, sealed, and turned over



to the site personnel by the employee.

7. All parties involved will be transported back to the police department.
  8. If the employee is held over their assigned time, the employee will be compensated for that time.
- C. A positive result, after a second qualifying test, may result in discipline.
- D. Employees who have been found to be using illegal drugs or narcotics, or abusing prescription drugs, shall be provided a hearing before the City Manager or designee where evidence is presented and preserved, before final action is taken against the employee.

ARTICLE TWELVE

PERSONNEL FILES

12.1 For the purposes of this Section, "personnel file" means the official employee personnel file in the custody of the City Manager or designee.

12.2 An employee covered hereunder shall be allowed to review their own personnel file at a reasonable time upon written request to the Personnel Director. The file shall not be removed under any circumstances by the Employee from the area designated for review of the file. Personnel files shall be treated with confidentiality and their contents shall not be disclosed to persons other than the Personnel Director, City Manager and the Chief of Police without the employee's consent unless the Employer is required by subpoena, court order or statute to do so.

12.3 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. No statement of rebuttal may be placed in an employee's file later than seven (7) calendar days after the employee is notified in writing of the unfavorable statement or notation of alleged misconduct. No anonymous material of any type shall be included in the employee's personnel file.

12.4 Unsubstantiated, reversed or dismissed allegations of misconduct, which did not result in disciplinary action noted in the personnel file, shall be removed from the personnel file.

12.5 Records of written warnings shall cease to have force and affect eighteen (18) months from the date of issuance. Records of written reprimands shall cease to have force and affect two (2) years from the date of issuance. Upon request of the employee, such reprimands shall be removed from the personnel file. Written warnings or reprimands may be of lesser duration if so deemed by the Chief of Police or City Manager. At no time shall records of written warnings or reprimands

exceed the time limits stated above.

Any suspension shall be removed from the record after a period of three (3) years from the date of the beginning of the suspension, if there have been no similar violations which have resulted in a suspension of three (3) days or more in the interim period. In those cases where a second suspension occurs, the first suspension will remain in the file for an additional three (3) years from the second offense.

12.6 An employee's signature on any performance evaluation shall mean only that the employee has seen and read the evaluation. It shall not be construed as a representation that the employee concurred with the contents or comments contained thereon. The employee shall, upon request, receive a copy of the evaluation in its final form.

12.7 The following information will be deemed to be information which if released could reasonably endanger the health and safety of bargaining unit members:

Employee's address

Employee's telephone number

Names, address and telephone number of employee's dependents and other family members

The Employer will prepare and disclose any records identified as public records required to be released in accordance with O.R.C. 149.43. The employee will immediately be notified of the name and professional association of any requestor if known to the Employer, prior to any disclosure. The Requestor will be advised that the employee will be notified of any known information about the Requestor and the specific Public Records disclosed.

ARTICLE THIRTEEN

RESIDENCY

13.1 Employees shall live within such proximity of the city that will permit them to report from home to the city limits within thirty (30) minutes under normal traffic conditions when driving at the posted speed limit.

## ARTICLE FOURTEEN

### SENIORITY

14.1 Seniority shall be based upon years of continuous full time service and shall be determined from the employee's last date of hire by the City's Police Department. Seniority shall be a factor in layoff, recall, vacation preference, and promotion as per the personnel review board rules. In all other matters, seniority may be used by the Employer, in its sole discretion, as a tiebreaker.

## ARTICLE FIFTEEN

### LAYOFF AND RECALL

15.1 Lay-Off. Layoff shall be by seniority within the classification. In the event of layoff, temporary employees, probationary employees, and part-time employees shall be laid off before any permanent full-time employees are laid off. Then the employee with the least number of years of continuous service with the Police Department shall be the next to be laid off within the classification subject to layoff.

15.2 Bumping. An employee to be laid off for more than six (6) work days shall be given at least five (5) days advance notice. Within five (5) days after receiving notice, the employee may exercise the right to bump. An employee may bump any less senior employee in the same classification or within any classification previously promoted from, provided the more senior employee possesses the skill, ability, and qualifications to perform the work without further training. Any employee who is bumped from their position will have five (5) days in which to exercise bumping rights in a similar manner. Any employee who does not have sufficient seniority and/or skill, ability and qualifications to bump, shall be laid off and placed on the recall list. An employee may only exercise bumping rights once during any layoff affecting their position.

15.3 Recall. Laid off employee will be placed on a layoff list and shall be eligible for recall for eighteen months from the date of layoff. Recall shall be done by seniority, that is, the last person laid off shall be the first person recalled. No new employees will be hired to positions under this Agreement while there are regular permanent full-time employees on the layoff list eligible for recall unless such eligible employees decline the position when it is offered or failed to respond to the recall offer within ten (10) days after notice to the last known address.

ARTICLE SIXTEEN

ACCESS TO CITY PROPERTY

16.1 Union business representatives shall have the right of reasonable access to such portions of the Employer's premises as are necessary in order to enable such representatives to communicate with bargaining unit members. The representatives will not interfere with the employees' work and will (except in emergency situations where it is otherwise impractical) obtain clearance from the Chief of Police, or in the Chief's absence, the Assistant Chief, before entering upon the premises.

## ARTICLE SEVENTEEN

### BULLETIN BOARDS

17.1 The Employer agrees to provide bulletin board space of sufficient size in the Police Department for use of the bargaining unit employees. The Employer may post on the bulletin board any notices concerning the employees covered hereby, which the Employer is required by law to post. The Union may post on the board notices relating to recreational and social events applicable to members of the bargaining unit; election notices and election results; notices of membership meetings and other related business meetings; and other official Union notices relating to the affairs of members of the bargaining unit. No obscene, immoral, unethical, scurrilous, or vituperative matter may be posted. All items posted by the Union or employees shall be approved and signed by the Chief Steward. The bulletin board shall be maintained in a neat and orderly manner.



## ARTICLE EIGHTEEN

### CITIZEN COMPLAINT PROCEDURE

18.1 This procedure will apply when a citizen alleges that an employee is guilty of some act or omission which brings discredit to the Department. Since there are insufficient resources available to conduct full-scale investigations of every complaint, this policy is necessary as a means of separating those allegations which are serious and based on firsthand knowledge from those which are founded on rumor, conjecture and hearsay. The goal of this procedure is to strike a balance between service to the citizenry and fairness to the accused employee.

1. All calls accusing an employee of some culpable conduct, which are not made by a citizen directly to the Police Department, shall be directed to the Personnel Director.
2. The Personnel Director will inform the complainant that an investigation will be initiated upon receipt from the complainant of a written statement setting forth the specific details that are the basis for the complaint. In the event that the complaint concerns a matter requiring immediate action in order to protect life or the safety of the public, or in order to prevent destruction of property, or in order to prevent a felony, the Chief of Police shall take whatever action deemed necessary and appropriate notwithstanding this procedure.
3. Upon receipt of the complaint, the Personnel Director will route the complaint for prompt disposition according to the nature of the complaint. The Personnel Director shall be responsible for the investigation of the complaint and will use such personnel within or without the Police Department as are appropriate to investigate the complaint in a fair and expeditious manner.

4. Upon completion of the investigation, appropriate disciplinary action will, if warranted, be commenced in accordance with the disciplinary procedure provisions of this Agreement. If, after investigation, it appears that the allegations are without merit and are dismissed, the accused employee will be promptly notified.