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## CHAPTER 2115

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### Toledo City Employees - AFSCME Local 7 (Communications Operators)

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(Ord. 79-08)

## **RECOGNITION**

### **2115.01 Local 7 Recognition**

(a) The City agrees to recognize the City employees of Local 7, AFSCME (AFL-CIO) Ohio Council 8, as having jurisdiction over and being the sole and exclusive bargaining agent for the employees for the City working in the classifications that are listed in Section 2115.02, "Classifications", herein, and as certified by the State Employment Relations Board in Case No. 97-REP-10- 0276, but excluding all management level employees, supervisors, and all other employees of the City of Toledo. The Union is recognized as the bargaining agency for the purpose of establishing wages, hours of work, handling of grievances and all other conditions of employment.

(b) Classification(s) created or position(s) added shall be subject to negotiations between the City and the Union to determine if they are to be included herein. If the City and the Union cannot reach mutual agreement relative to any new classification(s) or position(s) within thirty (30) days after the date they were created, then the matter shall be jointly submitted to the State Employment Relations Board for determination.

(c) The jurisdictional assignment for newly created Departments or Divisions shall be determined by negotiations between the City and the representatives of the various bargaining units. If agreement cannot be reached, then the matter shall be jointly submitted to the State Employment Relations Board for determination.

### **2115.02 Classifications**

This Bargaining Unit shall consist of two classifications: Communications Operator and Senior Communications Operator. The Communications Operator classification has been assigned to salary group seven (7) and the Senior Communications Operator has been assigned to salary group (8). Individuals in this Bargaining Unit shall be paid in accordance with "Wage Rates" Section 2115.113.

### **2115.03 Nonrepresentation-Probationary Period**

Employees in classifications set forth in Section 2115.02 "Classifications" shall be represented by the Union once they have satisfactorily completed one hundred sixty (160) actual work hours of their original probationary period as set forth in Section 2115.36 "Probationary Period"; except representation shall not be provided in matters relative to retention, discipline, or removal until satisfactory completion of the full probationary period.

### **2115.04 Collective Agreements**

The City shall not negotiate nor make any collective bargaining agreement or contract with any of the employees working in classifications covered herein individually or collectively. Any agreements entered into between the City and employees covered herein shall be through the President of the Local or representative(s) authorized by the President of the Local. Any other agreements shall be of no effect. All side agreements and memoranda of understanding shall be signed by the President of the Local and a responsible steward for the unit.

### **2115.05 Listing of New Employees**

The City agrees to furnish the Union at no cost, on a monthly basis, a list of new employees, retirees, disability, and terminations indicating the employee's name, address, date of hire, classification, department and social security number. Notice shall also be provided to the Health and Welfare Office.

Additionally, the City will furnish a quarterly list of all Bargaining Unit employees including the same information as above plus an indication as to whether the employee is a Union member, nonmember or fair share fee payer.

### **2115.06 Union Assessments**

In recognition of AFSCME Local 7's services to the bargaining unit and to promote harmonious and stable relationships between the bargaining unit and the City, employees within the bargaining unit shall, within thirty (30) days of this agreement, or their date of promotion, whichever is later, either become members of AFSCME Local 7 or share in the financial support of AFSCME Local 7 by paying to Local 7 a service fee not to exceed the amount of dues uniformly required of members of Local 7.

(a) The City will deduct current Union dues, initiation fees, and equal assessments owed to the Union, as well as current Union dues, initiation fees, service charges, and equal assessments from the paychecks of employees working in classifications included in the recognition clause herein. Such deductions shall be made from all paychecks of the month for which current dues (payable in advance) and any initiation fees or service charges are due the Union. The City further agrees to remit to the Secretary-Treasurer of the local Union or the Comptroller of Ohio Council 8 as directed by the local Union Secretary-Treasurer, dues, initiation fees, service charges, and uniform assessments so deducted from the paychecks of the employees covered herein.

(b) Fair share fee payment is a condition of employment for those who choose not to be a member of the Union.

(c) The Union will establish a rebate procedure for fees deducted from nonmembers of the Union in accordance with Ohio Revised Code 4117.09.

(d) The Union shall indemnify and save the City harmless against any liability that may arise out of, or by reason of, any actions taken by the City for the purpose of complying with the provisions of this section. In the event that the City is held responsible for the repayment of monies paid to Local 7 pursuant to this section, Local 7 to the extent of those funds actually received, shall reimburse same to the City and/or the designated employees involved.

(e) Should the City make available additional credit unions, other financial services, or other payroll deductions, these services will be made available to Local 7 members.

#### **2115.07 Withdrawal - Conditions**

All employees promoted to positions outside of this Bargaining Unit shall notify their payroll clerk in writing upon satisfactory completion of the appropriate probationary period to cease dues check off to this Bargaining Unit.

Dues check off for this Bargaining Unit employee shall cease upon such notification of satisfactory completion of such probationary period.

#### **2115.08 Credit Union/Direct Deposit**

Given written authorization, the City agrees to make a payroll deduction from an employee's paycheck and forward the same to any authorized credit union.

The City agrees to continue its current direct deposit program for employee paychecks. The employee may choose to receive a paper paycheck or elect direct deposit of his/her paycheck. In order to elect direct deposit, the employee must give written authorization to the City for direct deposit to any authorized credit union or bank eligible to receive Automated Clearing House (ACH) direct deposits and follow the procedures for direct deposit as provided by the City.

#### **2115.09 Savings Bonds and United Way**

The City agrees to deduct from employees giving written authorization any monies for the U.S. Savings Bond, United Way and Community Shares Programs and remit such withholdings to the proper authorities.

#### **2115.10 P.E.O.P.L.E.**

The City agrees to deduct from the paycheck of all employees who have signed a proper legal authorization for the Public Employees Organized to Promote Legislative Equality (PEOPLE) Committee and remit monthly to said committee all such deducted monies.

#### **2115.11 Deferred Compensation Plan**

The City will also make available during the term of this agreement the opportunity for all employees to participate through payroll deduction in a Deferred Compensation Plan (Section 401-K Plan and/or Section 457 Plan subject to I.R.S. limitations) developed and administered by a provider designated by the City. Participating employees in the 401-K plan shall pay all loan application and processing fees.

### **PLEDGE AGAINST DISCRIMINATION AND MANAGEMENT RIGHTS**

#### **2115.12 Nondiscrimination Pledge**

(a) The provisions herein shall be applied equally to all applicants for employment as well as current employees without discrimination as to age, sex, marital status, race, color, creed, national origin, handicap, sexual orientation or political affiliation. The failure of the City to apply the provisions herein without discrimination, when brought to the attention of the Union, shall be subject to the provisions of the Grievance Procedure.

(b) Particularly, it is the express intent that this Chapter of the Code shall not be interpreted in such a manner as to cause or constitute a violation of any law, specifically including Title VII of PL-88-352, as amended, known as the Equal Employment Opportunity Act of 1964, and the Civil Rights Act of 1991.

(c) Further, it is the intent of the parties to abide by the policy against sexual harassment as set forth in Administrative Policy and Procedure #34, Sexual Harassment, provided, however, that any remedy for violation of this policy shall be as set forth therein or provided by law.

(d) All references to employee(s) in this Chapter designate both sexes.

(e) The City agrees not to interfere with the rights of employ ee(s) to become members of the Union, and there shall be no discrimination, interference, restraint, or coercion by the City or its representatives against any lawful employee activity in an official capacity on behalf of the Union.

(f) The Union recognizes its responsibility as bargaining agent and agrees to represent all employees in the Bargaining Unit without discrimination, interference, restraint or coercion. The Union agrees not to intimidate or coerce any employee in an effort to recruit membership in the Union.

### **2115.13 Management Rights**

Nothing in this Agreement shall be construed as delegating to others the City's right to manage its operations and direct the work forces, including but not limited to the right to:

(1) Determine matters of inherent managerial policy, which include, but are not limited to, areas of discretion or policy such as the functions and programs of the public employer, 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 governmental operations;

(4) Determine the overall methods, process, means, or personnel by which governmental 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 employer as a unit of government;

(8) Effectively manage the work force;

(9) Take actions to carry out the mission of the public employer as a governmental unit.

## **REPRESENTATION**

### **2115.14 Union Stewards**

The Union shall be represented by a reasonable number of Union Stewards and Alternates in each of the Communications Bureaus, as well as one of the three (3) current Local 7 Divisional Stewards, and shall furnish their names to the Department of Human Resources and the appropriate Department and Division Heads.

### **2115.15 Union Release Time/Labor Management**

(a) The Stewards and/or Officers shall be permitted reasonable time during working hours to investigate and process grievances raised by Bargaining Unit members and to represent members in disciplinary actions brought by management. Stewards and officers shall be permitted to leave their regular work area to investigate or process a grievance or provide representation in disciplinary matters, provided, however, that no more than two representatives, apart from those on full-time release, shall be released for any given matter unless otherwise agreed by the Division Head. The Stewards and officers shall notify their immediate supervisors that they are leaving their jobs to handle a problem and shall report when returning to work utilizing the designated form.

Union officers shall also be permitted reasonable time to conduct other necessary Union business during working hours.

It is the intent of the parties that Union release time will be utilized in the manner that will least interfere with City operations.

Current practice will not be used as a standard of interpretation in the administration of this section.

(b) Labor-Management Meetings.

Labor-management meetings shall be scheduled at a mutually agreed upon time and date. They shall be held upon request of either party within a reasonable time period to discuss problems and/or matters of mutual concern. The subject(s) of the meeting will be provided at the time of the request.

The Union shall have representatives (stewards) from the affected department and shifts present, in addition, the Local President, Chief Steward and/or divisional steward may be present. The City may have individuals attend necessary to a resolution or discussion of the topic. Stewards attending the labor-management meeting will have their shifts adjusted accordingly if they are on opposing shifts to the date and time of the meeting. Any time adjustment for the stewards will be made that work day.

An agenda will be furnished by the party requesting the meeting at least three (3) work days in advance of the scheduled meeting by the party requesting the meeting.

Union representatives of the Labor-Management Committee shall not suffer loss in pay for attendance at such meetings provided by this article. However, such meetings which extend the work day shall be on non-paid time.

Within fifteen (15) work days from the date of the any labor- management meeting, management or the Union shall respond either orally or in writing to the other party on any issues which require an answer.

Agreements reached through labor-management meetings shall be implemented as quickly as possible by both parties.

Labor-Management meetings are not an extension of the collective bargaining agreement between the parties. (Cannot change terms of the labor agreement.)

The Union reserves the right to grieve issues discussed at labor-management meetings, if said issues are specifically part of the existing collective bargaining agreement. The City reserves the right to provide information at labor-management meetings without any legal/contractual duty to arrive at an agreement with the Union.

#### **2115.16 Rights to Visit**

An authorized representative of the Union shall have the right to visit the premises at any time during working hours for the purpose of investigating current working conditions and compliance with the terms herein, and shall have reasonable access to all documents pertinent to the investigation of grievances or disciplinaries, provided such representative reports to an official of the City upon entering the premises and such visit is made in such a manner as not to disrupt the City operations.

It is the intent of the parties that reasonable access to documents will be allowed in the manner that will least interfere with City operations.

#### **2115.17 Unit Meeting**

A monthly meeting may be held with Local 7 bargaining unit employees in each work unit to discuss topics of mutual concern to all. Due to the unique nature of the work performed by Communications Operators, monthly meetings will be scheduled at times other than assigned working hours, so as not to disrupt the functions of the Communications Operation which are vital to the preservation of public safety.

### **NO STRIKE - NO LOCKOUT**

#### **2115.18 No Strikes, Interruptions or Slowdowns**

The services performed by City employees included herein are essential to the public health, safety and welfare. The Union and the City, therefore, agree there shall be no strikes, no interruption of the work for any cause whatsoever, nor any work slowdown or other interference with the delivery of services to the public. For the purpose of this agreement, a "strike" means, concerted action in failing to report to duty; willful absence from one's position; stoppage of work; slowdown; or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in wages, hours, terms and other conditions of employment. Stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment which are abnormal to the place of employment shall not be deemed a strike.

Employees may be required to go through picket lines where an emergency requires them to do so to protect the public health, safety and welfare; but only after proper arrangements have been made so as not to cause the employee(s) to be considered strikebreakers and to properly protect them from any possible bodily harm.

#### **2115.19 Stewards - No Authority**

The Union Steward and/or the Alternate Steward have no authority to take any action interrupting the City's operation.

#### **2115.20 No Lockout**

The City will not engage in a lockout of the employees during the term of this Agreement. For the purpose of this Agreement, a "lockout" means preventing an employee from performing their regularly assigned duties as a means of bringing pressure on the employee or an employee organization to compromise or capitulate to the employer's terms regarding a labor relations dispute.

### **GRIEVANCE PROCEDURE**

#### **2115.21 Intent**

It is the mutual desire of the City and the Union to provide for the prompt adjustment of grievances in a fair and reasonable manner, with a minimum amount of interruption of work schedules. Every reasonable effort shall be made by both the City and the Union to effect the resolution of grievances at the earliest step possible. Grievance awards that specify the individual(s) to be paid and the amount shall be issued by the next full pay period after the award date. An award may be made in compensatory time at the employees discretion if so specified in the grievance.

#### **2115.22 Grievance Procedure**

(a) The recognized levels of management under the grievance procedure are as follows: the operational unit (Fire Communications or Police Communications), the Department (Fire or Police), and the Department of Human Resources.

(b) Definitions. Disputes involving interpretation, application, or enforcement of the terms of this agreement shall constitute a grievance under the provisions set forth herein.

For the purpose of this section, the term "days" is defined as Monday through Friday, excluding holidays. Appeals and responses at the various steps shall be considered submitted or received on the actual date of receipt, unless sent via U.S. mail in which case the date of posting shall be considered the date of receipt.

(c) Grievance Steps

STEP 1: When a dispute arises from action taken at the operational unit level, the employee and the Union representative shall discuss the matter with the responsible supervisor within seven (7) working days after the existence of the dispute is known to the employee. The responsible supervisor may respond within seven (7) workdays of the discussion. If the responsible supervisor fails to respond in the time frame allowed, the employee has the right to proceed to Step Two. Each operational unit will designate in writing to the Steward and Chief Steward the position(s) to whom grievances are to be presented at this step. Once designated by the operational unit, it is the Union's responsibility to advise new Stewards of the designations. The Union representative presenting the grievance will be immediately advised if the discussion of the grievance needs to occur at another supervisory level. So long as the grievance is presented to the designated operational unit representative in a timely manner the grievance will be considered timely.

When the dispute is resolved at the operational unit level, the responsible supervisor and the Union representative shall reduce the grievance and answer to writing within five (5) working days. Both the responsible supervisor and Union representative shall sign the grievance report.

STEP 2: When the dispute is not settled at the operational level, the Union representative shall reduce the grievance to writing and submit it to the chief of the department or his/her designee who has jurisdiction of the alleged infraction within ten (10) working days after the answer at the operational unit level. The grievance shall be submitted on an approved form and must specify the section of the contract at issue, how the section has been violated, and when the violation occurred. The chief or the designee thereof may at his option conduct a hearing on the grievance. If so, the hearing will be scheduled within ten (10) workdays with a decision required in ten (10) workdays following the day of the hearing. If there is no hearing, a decision shall be issued within ten (10) workdays of the submission at the second step. The grievance shall be returned to the Steward with the decision.

STEP 3: A grievance which is unresolved through steps one and two shall at the instance of the Union be submitted in writing to the Department of Human Resources within ten (10) work days of the decision in Step 2. The assigned hearing officer shall contact the Union's Chief Steward within ten (10) workdays of receipt of the appeal with dates for scheduling a Step 3 hearing. The hearing shall then be held within thirty (30) workdays of the date the Step 3 grievance was submitted to Human Resources. A written decision to be issued within ten (10) workdays thereafter, except where the parties have agreed to forego a hearing. If no hearing is set, a decision shall be issued within ten (10) workdays of the agreement to forego a hearing. A copy of the decision shall be submitted to the Union hall, employee's steward, divisional steward and the employee. The failure to submit a copy to any party except to the Union hall, or the failure to do so in a timely fashion, except to the Union hall, shall not constitute a violation of Section 2115.25, "Failure to Answer or Appeal".

(d) General Provisions

A grievance may be advanced to any step of the grievance procedure up to and including arbitration by mutual consent of the parties.

When a dispute arises from action taken above the operational unit level, the Union shall reduce the grievance to writing and submit it to the level of management where the dispute occurred. Said dispute must be brought to the attention of the responsible level of management within ten (10) workdays after the date the Union has gained knowledge that a dispute exists. A hearing to resolve said dispute will be scheduled within ten (10) workdays with a written decision required in ten (10) workdays following the hearing.

The Union has the authority to attempt settlement with the City at any step of the procedure and any settlement reached shall be binding upon all parties.

### **2115.23 Arbitration**

(a) If it is the decision of the Union to submit the grievance to arbitration, then the Union shall notify the Department of Human Resources in writing within fifteen (15) workdays after the final answer of the City has been received by the Union. All such appeals shall be submitted to the Labor Management Forum under paragraph B unless the parties mutually agree otherwise.

Within seven (7) calendar days after this notification, the Union or the City shall provide written notification to the other if the use of expedited arbitration under Section 2115.24 is desired. The parties will confer within seven (7) calendar days thereafter to decide if the expedited labor arbitration process is to be used, as set forth in this contract. If neither side requests expedited arbitration or the parties do not agree upon same, then the following process is to be followed.

(b) Two (2) representatives from the Union and two (2) from the City shall meet on a bi-monthly basis to discuss grievances appealed to arbitration since their last session and any other matters mutually agreed upon. Where more than two (2) representatives are needed to effectively deal with items on the agenda, up to two (2) more may attend from each side provided two (2) days advance notice is supplied of this need. The meetings shall serve as a forum for discussing the potential for resolving pending disputes. Information exchanged or positions taken may not serve as admissions in any later

arbitrations or other legal proceedings.

Grievances not resolved in the forum may by mutual agreement still be submitted to Expedited Arbitration under Section 2115.24, or may be submitted by the Union to binding arbitration pursuant to part (c) of this section. The Union must confirm in writing within thirty (30) calendar days from the date of this labor-management forum that the grievance will proceed to arbitration; otherwise, the grievance will be considered as resolved based on the City's answer to the grievance.

(c) A list of seven (7) arbitrators shall be requested from the Federal Mediation and Conciliation Service (FMCS) or another mutually agreed source. Unless otherwise agreed, any list from FMCS shall be requested from the Northern Ohio and Michigan Sub Regions. After receipt of the list, either party may submit a written request to the non-moving party to strike a panel. The City and the Union shall alternately strike one (1) name from the list. The side to strike the first name shall be chosen by lot. If the non-moving party fails to strike the panel within twenty (20) workdays of receipt of the written request, then the moving party has the right to submit its preference in accordance with federal FMCS policies. The non-moving party shall have fourteen (14) calendar days to respond to the moving party's preference.

(d) The Arbitrator shall conduct a hearing within a reasonable time of his selection, at a time, date and place mutually agreed to by the parties. The Arbitrator shall render a decision within a reasonable time of the conclusion of the hearing, unless the parties agree to an extension. The Arbitrator shall not amend, add to or delete any of the provisions of this Agreement.

### **2115.24 Expedited Labor Arbitration Rules**

The City and the Union shall jointly establish a list which will be defined as an Expedited Labor Arbitration Panel. All grievances referred to this panel will be by mutual agreement, except as otherwise provided by this agreement.

The panel of labor Arbitrators will be comprised of seven (7) persons and shall be selected from a panel of twenty-one (21) Arbitrators requested from the Federal Mediation and Conciliation Service Area 48. The list shall be put in random order as selected by the parties after a coin toss to determine the first selector. An Arbitrator, upon rendering a decision, shall be placed in the seventh (7th) position and the person originally listed as second will become the next Arbitrator so assigned.

If the Arbitrator who is first on the list is unavailable on an expedited basis or within required time frames, the next available Arbitrator shall be used. The hearing shall be conducted by the Arbitrator in whatever manner will most expeditiously permit a full presentation of the evidence and arguments of the parties. There shall be no stenographic record of the proceedings, but the Arbitrator shall make an appropriate record of the proceedings. Normally, the hearing shall be completed in one (1) day. In unusual circumstances and for good cause shown, the Arbitrator may extend the hearing beyond one (1) day, and schedule an additional hearing, within five (5) workdays. There shall be no post hearing briefs unless otherwise agreed upon or unless requested by the Arbitrator. Any briefing shall be on an expedited basis.

The arbitration may proceed in the absence of any party who, after due notice, fails to be present. An award shall not be made solely on the default of a party. The Arbitrator shall require the attending party to submit supporting evidence.

The Arbitrator shall be the sole judge of the relevancy and materiality of the evidence offered.

When both sides have completed their presentations, the Arbitrator shall ask whether either party has any further evidence to offer or witnesses to be heard. Upon receiving negative replies, the Arbitrator shall declare and note the hearing closed.

The award shall be rendered promptly by the Arbitrator and, unless otherwise agreed by the parties, not later than five (5) workdays from the date of the close of the hearing.

The award shall be in writing and shall be signed by the Arbitrator. If the Arbitrator determines that an opinion is necessary, it shall be in summary form.

The expenses of non-City employee witnesses for either side shall be paid by the party producing such witnesses. City employees called as witnesses shall be paid if called during normal working hours.

The Arbitrator shall interpret and apply these rules insofar as they relate to the Arbitrator's powers and duties.

The decision rendered by the Arbitrator shall be advisory only and shall not be precedent setting, except when the parties have agreed otherwise in advance or for adjudications of disputes over the reasonableness of Work Schedule Changes (Section 2115.64, "Work Schedules"), the excessive cost question under Subcontracting (Section 2115.122), the duty to bargain under general work rules, or the reasonableness issue involving new Policies, Procedures, and Regulations (Section 2115.121 (d)).

### **2115.25 Failure to Answer or Appeal**

In the event that the City fails to answer a grievance within the time required at any step of the grievance procedure or if the Union fails to appeal the answer given to the next step of the grievance procedure within the time allowed, then the grievance will be considered settled against the side which defaulted. Grievances settled by default cannot be the basis of establishing precedent for the settlement of any other grievances. Time limits may be extended by mutual agreement.

## **DISCIPLINARY PROCEDURE**

### **2115.26 Suspension Without Hearing**

(a) No employee shall be suspended without pay from the service of the City without first having been afforded a hearing

by the City's designated hearing officer, except as provided below.

(b) An employee may be suspended without pay pending a hearing only for major infractions of theft, embezzlement of public funds, being under the influence of alcoholic beverages or abusive drugs during working hours, the use of alcoholic beverages or abusive drugs during working hours, physical violence, offenses involving gross misconduct, or gross insubordination.

(c) However, where an employee is suspended under this provision, the President of the Union or a designee shall be notified of the suspension immediately, and a hearing before the City's designated hearing officer shall be held prior to the end of the work day thereafter at a time mutually agreed upon. The sole purpose of the hearing will be to establish whether sufficient cause exists to continue the suspension until a full hearing as provided in Section 2115.27, "Procedure", is held and a determination thereunder rendered. Said full hearing need not be scheduled within the time parameters provided under Section 2115.27, "Procedure"; rather, it shall be at the call of the hearing officer.

### **2115.27 Procedure**

(a) When an employee is to be disciplined, the Division Head or Department Head shall have the charges against the employee reduced to writing, with one (1) copy to be delivered to the employee at the job site and a copy delivered to the local Union President's office. Delivery to the employee shall be deemed to have occurred if the charges are hand-delivered, or in the event that hand-delivery fails, placed in the U.S. mail. Delivery at the employee's home will be utilized as a last resort - normally where time is of the essence. Delivery to the local Union President's office shall be deemed to have occurred if the charges are hand-delivered, sent by facsimile (fax) transmission, left at the office with a Union representative or Union employee, or placed in the U.S. mail using certified or registered mail, return receipt requested. Where resort to U.S. mail occurs, the date of the posting shall control and a written certification shall be provided to the Hearing Officer stating the date of mailing and address to which mailed. The employee's last known address shall be utilized.

The local Union President or Chief Steward shall be notified when an investigation begins that could lead to an infraction. In no case shall the notification be more than five (5) work days (M-F not including holidays) after the Bureau's knowledge. This notification cannot be brought up at the disciplinary hearing as an issue of failing to follow procedure.

Charges must be brought within fifteen (15) workdays (Monday through Friday, except holidays) of the Bureau notifying the Union that an investigation has begun. If the Bureau needs more time to investigate, they can request an extension in writing from the Union. However, charges must be brought within thirty (30) working days (M-F not including weekends and holidays) from the date of the incident that may lead to an infraction after the thirty (30) workday time period, the time periods under this section will start from the Bureau's verifiable knowledge of the incident. This does not preclude the parties from mutually agreeing to extend timeframes. If an employee's work related activities are being challenged through litigation, any disciplinary action that could be considered by the City may be deferred pending the conclusion of litigation. The hearing shall be held by the City's designated hearing officer on a date and time mutually agreed upon, but no more than ten (10) work days (Monday through Friday) after the charges have been served on the employee, unless mutually agreed upon otherwise. In the event the hearing cannot be held because of the absence of the employee, Division or Department Head then it shall be held within five (5) work days (Monday through Friday) after the return of the employee and/or Division or Department Head.

(b) Charges shall be preferred by the Division or Department Head and, if different, the individual originally lodging them. The designee of the City shall serve as the Hearing Officer.

(c) The employee shall have the right to be represented at such hearing by the Union. The bargaining representative shall have the right to attend any such hearing held where an employee included in the jurisdiction of the Bargaining Unit is involved.

(d) The employee shall be presumed to be innocent and the burden shall be on the employer to show fault by the evidence presented at the hearing. The employee or his representative shall have the right to confront and question the accuser, the right to call and examine witnesses in the employee's behalf, the right to have all pertinent records made available, and the right to file a written answer to the charges prior to the hearing.

(e) The designee of the City shall hear only the evidence in support of the charges and only the evidence in defense of the charges and shall endeavor to ascertain the truth of the charges. The designee of the City shall make a recommendation to the Mayor on the case within ten (10) work days (Monday through Friday) following the closing of the hearing.

(f) In appropriate cases, referral to the Employee Assistance Program may be considered pursuant to the provisions of Section 2115.35, "Employee Assistance Program".

(g) If the recommendation of the designee of the City is for dismissal or demotion, then the Mayor or designated member of the Mayor's staff shall within ten (10) workdays schedule the hearing to hear oral arguments from the parties relative to the recommended penalty. It is the intention of the parties to hold the hearing within ten (10) workdays. A fair and just decision based on the arguments submitted at the hearing will be rendered in a timely manner. Termination from employment shall not occur until the Mayor's decision is rendered.

If the recommendation of the designee of the City is for termination, the employee will be removed immediately from his/her position and will be suspended on administrative leave without pay, unless the employee elects to use available vacation and/or compensatory time pending the Mayor's decision.

(h) Penalties imposed as a result of the hearing shall be in compliance with the Progressive Disciplinary Procedure in

Section 2115.30 or the Advanced Disciplinary Procedure in Section 2115.31 or, when applicable, policies and/or Memoranda of Understanding regarding D.O.T. drug and alcohol procedures, and only those penalties agreed upon by the parties or imposed by the Hearing Officer except as otherwise provided by this agreement.

### **2115.28 Appeal**

(a) Any disciplinary action involving a suspension, a demotion or discharge, shall, at the option of the employee, be subject to the appeal procedure of the Civil Service Commission or shall, at the option of the Union Grievance Committee, be subject to the arbitration procedure provided in Section 2115.21, "Intent", through Section 2115.25, "Failure to Answer or Appeal". When the Union Grievance Committee has elected to file a grievance pursuant to the procedures set forth in said arbitration procedure and the employee subsequently files an appeal to the Civil Service Commission, then said grievance shall be considered waived, the employee having elected to appeal to the Civil Service Commission under the Civil Service Rules, as provided by the Charter of the City.

(b) Any disciplinary action involving a written or verbal warning shall be subject to the grievance procedure commencing at the operational level. An appeal of the decision may be submitted to the Department of Human Resources whose decision will be final and binding on the parties.

### **2115.29 Verbal Warning**

When an employee is to be given a verbal warning, the matter shall be privately discussed between the employee and appropriate supervisor. The Union steward shall be informed and shall have a right to be present so that the Union can be afforded an opportunity to discuss the matter with the employee. A record of the infraction shall be maintained, subject to the provisions of Section 2115.32, "Clearing of Employee's Record", herein.

### **2115.30 Progressive Disciplinary Procedures**

In order to insure that all employees are treated fairly, the following standard procedure for imposing disciplinary action on employees guilty of minor infractions shall be followed. This procedure shall apply to all disciplinary infractions except theft, embezzlement of public funds, being under the influence of alcoholic beverages or abusive drugs during work hours, physical violence, offenses involving gross misconduct, or gross insubordination.

#### Level A

Reprimand

Step One:

An employee who commits a minor infraction within twelve (12) months of issuance of a verbal warning shall be given a written reprimand and be placed in Step One of this procedure. Reprimands shall be discussed with the employee privately. The Union steward shall be present and informed so that the Union can be afforded an opportunity to discuss the matter with the employee. A copy of the reprimand will be furnished to the Department of Human Resources, the Union Steward and the Union office.

#### Level B

Suspension

**Step Two:** Suspension--one to ten days

An employee found guilty of a minor infraction within twelve (12) months of issuance of a reprimand shall: Be suspended without pay for up to ten (10) work days depending upon the investigation of the cause of the rule infraction, the employee's work record and the seriousness of the infraction.

**Step Three:** Suspension--eleven to twenty days

An employee found guilty of another minor infraction within sixteen (16) months thereafter shall be suspended without pay for from eleven (11) to twenty (20) work days, depending upon the investigation of the cause of the rule infraction, the employee's work record and the seriousness of the infraction.

#### Level C

Discharge

**Step Four:** An employee found guilty of another minor infraction within twenty-one (21) months thereafter may be discharged.

The designee of the City shall have the final say as to the severity of the penalty to be imposed as long as the penalty does not exceed the above procedure. The hearing officer may in his/her discretion order repetition of a prior penalty rather than advancement to the next penalty level.

### **2115.31 Advanced Disciplinary Procedure**

With regard to the major offenses of theft, embezzlement of public funds, being under the influence of alcoholic beverages or abusive drugs during working hours, the use of alcoholic beverages or abusive drugs during working hours, physical violence, offenses involving gross misconduct, or gross insubordination, the employee is subject to advanced disciplinary

action as deemed appropriate by management, rather than the Progressive Disciplinary Procedure established under Section 2115.30, "Progressive Disciplinary Procedures". The disciplinary action shall also place the employee at the equivalent level in the Progressive Disciplinary Procedure.

### **2115.32 Clearing of Employee's Record**

Verbal and written reprimands shall be removed from an employee's record after one (1) year from the date of the disciplinary finding provided that no minor infractions occur in the interim.

Employees found guilty of minor infractions and placed in Step 2 of the Progressive Disciplinary Procedure shall have the record removed if no minor or major infractions occur within an eighteen (18) month period thereafter.

Employees found guilty of minor infractions and placed in Step 3 of the Progressive Disciplinary Procedure shall have the record removed if no minor or major infractions occur within a twenty- four (24) month period thereafter.

Major infractions shall be removed from an employee's record after three (3) years from the date of the disciplinary finding provided no other major or minor infraction occurs in the interim.

Records of expunged disciplinary actions shall be removed from the employee's personnel records and shall not be used as a basis for future disciplinary actions, or used as a basis for denial of a transfer, demotion or promotional opportunity, except employees placed at Step 3 or higher may continue to have the discipline considered for promotional purposes for a period of one (1) year after its removal. An employee has a right to review his/her disciplinary file in their department and at the Department of Human Resources level on an annual basis.

A schedule of records retention and disposition shall be created consistent with the above time frames and submitted for approval to the appropriate authorities. Upon approval of the schedule, expunged disciplinary records will be destroyed. The City may maintain a statistical record showing numbers, type, and levels of discipline and a statistical profile of employees disciplined, but shall not maintain any records identifying individual employees beyond the specified periods.

Reprimands may be removed after five (5) months from the date of the reprimand at the discretion of the Communications Captain. Employees requesting removal shall submit a written request to the Captain.

### **2115.33 Counseling Employees**

Counseling is intended to be used as a corrective, rather than a punitive, measure and should be used to call attention to proper procedures, performance and expectations. When it becomes necessary for a supervisor to counsel an employee, it shall be done in private in a manner which will not cause embarrassment to the employee. This shall normally occur within ten (10) work days of the offense.

Counseling records shall be removed after nine (9) months from their issuance and destroyed in accordance with the provisions of Section 2115.32, "Clearing of Employee's Record".

### **2115.34 Failure to Follow Procedure**

In the event the proper procedure is not followed as set forth in this Article, then charges against the employee will be dropped.

### **2115.35 Employee Assistance Program**

The parties agree that alcoholism and other such drug dependencies are both a sickness and a social ill. The parties desire to work together to help correct the problems this has caused our employees and the City.

The parties will identify in a cooperative fashion persons in need of the Employee Assistance Program both inside and outside the discipline process.

The parties agree that a strengthening of the Employee Assistance Program is essential for effective operation of that program. In order to strengthen it, the following actions must take place.

1. Additional training and education on alcoholism, drug dependency, and the Employee Assistance Program should be made available.
2. When discipline is involved, the parties will fashion discipline so that the remedy will help correct the problem as well as imposing a penalty. The City reserves the right to discipline.
3. When an employee is referred to the Employee Assistance Program as a result of the discipline process, the employee shall attend that program under threat of further discipline.
4. Reports limited to attendance, cooperation, and progress can be confidentially supplied to the employee's division head and other appropriate individuals so as to assure that treatment is completed; provided, however, that the exact nature of the problem, prognosis, and diagnosis should remain confidential. Reports shall only be provided when the employee is enrolled in the Employee Assistance Program as a result of the discipline process or when the employee consents to the submission of status reports.
5. The methods, criteria, functions, successes or failures of this program shall be re-evaluated whenever appropriate.
6. The Union and City shall form a committee of a representative from the Union, a representative from the City, and the

coordinator of the Employee Assistance Program to evaluate and assist the Employee Assistance Program.

## **SENIORITY AND RELATED MATTERS**

### **2115.36 Probationary Period**

Newly hired employees shall have no seniority during their probationary period, but upon completion of the probationary period their seniority date shall be the date of hire. Employees in classifications included in Section 2115.02, "Classifications", shall be probationary employees for a period of one thousand five hundred and sixty (1,560) actual hours worked after successful completion of on the job training. Said employees shall not receive any fringe benefits during the initial one hundred and sixty (160) actual work hours of employment, but shall be entitled to full fringe benefits thereafter.

### **2115.37 Performance Appraisal Systems and Incentive Plans**

A performance appraisal system for individual employees may be adopted or continued and instituted by the City in cooperation with Local 7. The system's use in rewarding exemplary performance and determining training needs shall be initiated by mutual agreement with Local 7 by a committee consisting of up to six (6) members (3 City, 3 Local 7), at least one of which from the affected unit.

The performance appraisal system shall include a measurement instrument, mutually agreed to by the City and the Union, including the establishment of performance goals to be agreed upon by the employee and the supervisor. The system shall include training in proper evaluation techniques for both employee and supervisor.

Following the development of the system and employee training, a trial period, not to exceed six (6) months, shall be used to evaluate the effectiveness of the performance evaluation system. Data from the trial period will be used to evaluate methods of improving the system.

After the trial period and the evaluation of the pilot performance appraisal system, the modified system may be replicated in other divisions by mutual agreement of the City and the Union.

### **2115.38 Seniority**

Seniority shall accrue to regular full time employees of the City and shall be based upon the total length of continuous service with the City, and shall be used for the purpose of determining layoffs, bumping rights and recall rights.

The seniority date of a City employee shall be the date of the employee's appointment as a permanent or provisional employee. If the employee (1) was originally hired directly by the City as a temporary employee and (2) worked continuously full-time, and (3) was subsequently made a permanent or provisional employee in any classification without a break in service, then upon the employee's successful completion of the probationary period in the permanent or provisional position, the employee's seniority date shall be the date of original appointment to the temporary appointment.

All full-time continuous service as a temporary employee meeting the above criteria shall be counted for the purpose of determining the employee's entitlement to fringe benefits. If the employee had worked as a temporary continuously full time for one hundred and twenty (120) work days, then the employee shall be eligible for fringe benefits immediately upon appointment as a permanent or provisional employee.

### **2115.39 Unit Seniority**

Unit Seniority shall mean seniority in a classification within the unit and shall be used for preference of vacations, bonus vacations, holidays, shift selection for non-probationary employees, use of compensatory time and placement on the overtime rotating list and bidding vacancies on shifts in accordance with recognized Divisional Agreements. Where a Divisional Agreement specifies bid rights, those provisions will control over the assignment of work. Unit seniority shall also be used for purposes of alternate and provisional appointments as provided in Sections 2115.54, "Alternates", and 2115.49(c), "Promotions". "Unit" means an operational section based on common work and/or site location. Unit determination shall be mutually agreed to by the City and the Union and be incorporated into the Divisional Agreements.

It is the intent of the parties that job tasks will be rotated on each shift as equitably as possible.

### **2115.40 Seniority List**

The City will provide seniority lists. These lists shall be kept up-to-date and give the employee's City-wide seniority date and current permanent or provisional classification seniority date. The list shall be posted for all employees to see. These lists shall be furnished to the Union upon reasonable request.

### **2115.41 Seniority - Union Officers and Stewards**

All of Local 7's officers, divisional stewards and departmental stewards shall have top seniority during their term of office in that order regardless of length of continuous service for the purpose of layoff and recall. The only exception to this section is where there is more than one steward in a division or unit and there are different zones; the stewards shall exercise their seniority so that all zones will be covered. They shall return to their original standings on the seniority list at the end of their terms of office.

### **2115.42 Military Service**

(a) Military leave

An employee who is called or enlists into military service shall be placed on an approved leave of absence during the time the employee is required to serve. Upon discharge, the employee shall have ninety (90) calendar days to report back to the City to be reassigned in accordance with the law. The employee shall accrue seniority while on such leave as provided in part (b).

(b) Seniority during military service

Regular employees who leave the service of the City to enter that of the United States Armed Forces, or the services of the U.S. Maritime Commission, or who are drafted by the United States Government for civilian services, will, upon their return, within ninety (90) calendar days from release from such service, be granted all seniority rights as if continuously employed by the City during such service. Sick leave accrued prior to the date of an employee's entrance into the military service shall be preserved until their return to City employment. Whenever vacancies occur in the classified service by reason of a military leave of absence, appointments may be made for the duration of the emergency or earlier return to City service of the employees granted such leaves for military service. All such appointments shall be subject to the priority rights of the permanent employees granted military leaves.

(C) Military pay

A regular employee of the City who is on short - term military training duty shall be paid the difference between the employee's regular rate of pay and the pay the employee receives from the military service for such period for up to thirty-one (31) calendar days in any calendar year. This pay is not for the purposes of attending monthly organizational or training meetings in a reserve unit.

### **2115.43 Seniority During Industrial Disability**

An employee who is unable to work because of industrial (service connected) disability shall accumulate seniority during this period of sickness or disability not to exceed two (2) year's duration, unless by mutual agreement this period is extended in writing. Prior to the end of three months and each quarter thereafter the City and the Union will meet with the employee to determine if the employee will be able to return to their classification.

### **2115.44 Loss of Seniority**

The seniority of an employee shall be lost and the employee shall be terminated for the following reasons:

- (a) The employee resigns.
- (b) The employee is discharged by the appointing authority.
- (c) The employee fails to report to work after fourteen (14) calendar days after a recall notice has been sent.
- (d) The employee is absent for five (5) consecutive working days without obtaining an approved leave of absence or notifying the City and substantiating with medical verification that the employee is sick and/or disabled.
- (e) The employee fails to return at the expiration of an approved leave of absence.
- (f) An employee enters employment for another employer or becomes self-employed while on leave.
- (g) An employee is laid off continuously for more than four (4) years.
- (h) The employee retires.
- (i) When an employee loses seniority for the reasons listed in subsection (c) through (g) above, said employee shall be given written notice of the reason for such loss of seniority. Loss of seniority under paragraphs (d) and (e) shall be subject to a review by the Department of Human Resources. Loss of seniority for any reason except paragraph (b) above, shall not be subject to review under Section 2115.27, "Procedure", (g) or Section 2115.28, "Appeal".

### **2115.45 Layoff Procedure**

(a) When it is necessary to reduce the work force for lack of work or for other legitimate reasons, any temporary, or probationary employee in the classification affected shall be laid off before any permanent or provisional employee is laid off. In making a layoff of permanently certified employees, the employee to be laid off shall be the one with the least amount of continuous service within the Bargaining Unit, with the City.

(b) No bumping into the Police or Fire Communications Sections unless the employee meets the preferred qualifications as outlined in the Class Specification for Communications Operator.

(c) An employee laid off shall have the right to displace another City employee having less continuous service than the laid off employee in accordance with the following procedure.

(1) First. Employees will be offered funded vacant positions within the Local 7 jurisdiction within the same classification, within the same or lower salary group, provided employees conform to the provisions listed in this section.

(2) Second. The employee shall have the right to displace the employee in the same classification, within the Bargaining Unit, with the least amount of continuous service with the City.

(3) Third. The employee shall displace the employee in the same salary group who has the least amount of continuous City service, within the Bargaining Unit with the City provided the affected employee (i) has performed in that classification or has the required experience in a similar or related position, and (ii) meets the minimum requirements for the classification, and (iii) has the ability to perform the duties of that position.

(4) Fourth. The employee shall drop one or more salary groups and displace the employee in the lower salary group who is working in a classification that the employee: (i) has either performed or for which he has the required experience in a similar or related position, and (ii) for which the employee meets the minimum requirements for the classification, and (iii) for which the employee has the ability to perform the duties of that position.

(5) Fifth. Notwithstanding the above procedure, an employee will be allowed to displace an employee in a classification not previously performed in when that classification is in a logical progression from a present or former classification held. Again, the employee must meet the minimum requirements for the classification and have the ability to perform the duties of the position.

(6) Sixth. The definition "performed in the classification" will include employment outside the City where documentation has been submitted to and approved by the Toledo Civil Service Commission prior to the layoff process. An individual approved must be able to perform the duties of the position.

(7) Seventh. This process shall repeat itself until the employees having the least amount of seniority within the affected classes have been displaced by employees with greater seniority who have met the conditions set forth above.

(8) Eighth. Notwithstanding the above procedure, any employee whose position has been identified for elimination or who has been displaced by a more senior employee shall have the right to accept the layoff without repercussion.

(9) Ninth. In the event there are any seasonal employees working anywhere for the City, employees who have been laid off as a result of this procedure shall have the option of taking those positions by seniority provided they have the ability to perform the duties of such positions or they may choose to take the layoff without repercussion.

(d) The City of Toledo will notify the Union thirty (30) days prior to the effective date of layoffs that the elimination of positions has become necessary.

(e) In the interest of public safety, no more than 5% of the Local 7 employees in the Police and Fire Communications Sections, respectively, may be bumped under the provisions of this article. Laid off employees who displace into a salary group/classification different than their permanent classification will serve a sixty (60) work day demonstration period following completion of training; if found unsatisfactory during this sixty (60) work day period, the employee will prospectively displace from the original permanent classification.

(f) Any laid off employee who determines a classification/ position, to which they have displaced into pursuant to this layoff procedure, is not suitable during the applicable probationary or demonstration period, may either (1) accept placement into an available vacancy equal to or lower than the classification from which they were originally laid off, or (2) will actually be laid off. Otherwise, there is no "re-bump" process.

(g) A laid off employee will receive the appropriate rate of pay for the salary group of the classification to which they displace into and, the twelve (12) month rule for the "steps" within the salary group will be applied from the original salary group (as set forth in "Wage Rates, Premiums and Allowances" Section 2115.113, "Base Annual Salaries") for lateral movement through this layoff procedure.

#### **2115.46 Vacancies**

(a) In the event an existing bargaining unit position becomes vacant, it shall be filled in accordance with the following priorities.

(1) Recall of permanent employees within the bargaining unit first who are laid off or displaced in accordance with recall procedure as set forth in 2115.47, "Recall Procedure".

(2) Reappointment of employees within the bargaining unit first employees reclassified to a lower level as set forth in 2115.48, "Reappointment".

(3) Promotion of employees within the bargaining unit as set forth in 2115.49, "Promotions".

(4) Transfer of employees within the bargaining unit first as set forth in 2115.50, "Transfers".

(5) Voluntary Demotion of employees within the bargaining unit first as set forth in 2115.51, "Voluntary Demotion".

(6) Reinstatement of permanent employees within the bargaining unit in conformance with the procedure set forth in 2115.53, "Reinstatement".

(7) Current Local 7 employees, in another Bargaining Unit, who meet the preferred qualifications as outlined in the Class Specification for Communications Operator, in order of preference outlined in Section 2115.46, "Vacancies", of the Local 7 contract.

(8) Non Local 7 employees, including new hires, who meet the preferred qualifications as outlined in the Class Specification for Communications Operator.

(9) Local 7 employees from outside the Bargaining Unit who do not meet the preferred qualifications as outlined in the

Class Specification for Communications Operator.

(10) New hires who do not meet the preferred qualifications as outlined in the Class Specification for Communications Operator.

(b) If the City intends to leave the vacancy unfilled, or intends to defer filling the vacancy until some time certain, the City shall so notify the Union within thirty (30) calendar days of the occurrence of the vacancy. Failure to comply with this provision shall require the City to fill the vacancy immediately, in accordance with the above procedures.

#### **2115.47 Recall Procedure**

(a) No employee shall be recalled into this unit unless the employee meets the preferred qualifications as outlined in the Class Specification for Communications Operator.

(b) For purposes of recall from layoff, bargaining unit employees of Local 7 shall have the right to be recalled to any position in the above bargaining unit for which they qualify. The laid off employees shall be placed, according to seniority, on the recall list(s) of the positions for which the employee qualifies. For purposes of this agreement, seniority means the total length of continuous service to the City, Board of Health, or Toledo House of Correction, irrespective of any transferring between bargaining units.

Employees will remain on this list for return to the division and classification they were in prior to the layoff or displacement for a period of four (4) years. Employees who are laid off or displaced will remain on a recall list to fill vacancies (other than from their permanent classification in the division from which they were laid off or displaced) in the same or lower salary group of their permanent classification for a period of three (3) years.

(c) Laid off employees who refuse recall to their former classifications will forfeit their recall rights and their names will be removed from the list.

(d) Before any vacancies are filled, the qualifications of individuals on the recall list will be reviewed by Department of Human Resources personnel to determine if they possess the necessary qualifications. Permanent employees who are judged qualified will be recalled by seniority to fill vacancies in the same or lower salary group of their permanent classification.

(e) Employees on the recall list who are determined qualified by the Department of Human Resources will be provisionally recalled to fill vacancies at a higher salary group than their permanent classification, provided there are no permanent employees with more City seniority within the unit first, division second, where the vacancy exists; in such cases the most senior qualified employee willing to accept the provisional appointment is to be appointed.

(f) Prior to hiring from eligibility lists, individuals on the recall list who are qualified as determined by the Department of Human Resources personnel will be allowed to fill vacancies in job classifications at the same salary group and/or in a lower salary group than their permanent classification by seniority.

(g) An employee who is promoted through the recall procedures and achieves permanent status in the higher level position will be removed from the recall list, and this higher level position will then be the affected employee's "permanent classification".

(h) Employees will be contacted by telephone and notified of their being recalled and must accept or reject the recall within three (3) work days. An employee off work will be sent a certified letter notifying them of being recalled; a failure to accept or respond within ten (10) work days will result in the City recalling the next most appropriate employee.

#### **2115.48 Reappointment**

Incumbents of positions reclassified to a classification having a lower level of responsibility shall be given an opportunity to return to a vacant position in the former classification. If a vacancy does not exist at such time, the name of the incumbent shall be placed on a re-appointment list by seniority for the former classification. An individual may decline one offer to return to the former classification and remain at current salary. An individual declining a second offer to return to the former classification shall have the rate of pay immediately reduced to the rate established by ordinance for the current classification, or to the red-circled rate of pay for the current classification, whichever is higher.

No employee shall receive a re-appointment into this Bargaining Unit unless the employee meets the preferred qualifications as outlined in the Class Specification for Communications Operator.

#### **2115.49 Promotions**

(a) Local 7 members shall be allowed to promote into this Bargaining Unit provided they meet the preferred qualifications as outlined in the Class Specification for Communications Operator. In the event no one meets the preferred qualifications, then preference shall be given to Local 7 employees in accordance with Section 2115.46, "Vacancies".

(b) Provisional Listings

(1) The employee who is determined most qualified to do the work from among the three (3) most senior qualified employees willing to accept the position in the next lower classification in the unit shall have the right to be appointed provisionally to that position. If there are not at least three (3) eligible employees within the immediate lower classification, then the most senior qualified employee(s) from the next lower classification in the unit shall be included for consideration to

provide for selection from among three (3) candidates. If there are no eligible employees within the immediate lower classification below the vacancy in the unit, then the employee(s) determined most qualified to do the work from among the three (3) most senior employees willing to accept the position in the next lower classification(s) shall have the right to be appointed provisionally to that position and so forth until there are not at least three (3) within that unit eligible for appointment.

(2) If there are not three (3) eligible employees within that unit, then the employee(s) with the most classification seniority from the next lower classification in the division who are qualified and willing to accept the appointment shall be included for consideration for selection from among three (3) candidates. So long as one of the candidates is from within the unit in which the vacancy exists, unit seniority shall be the seniority used. If there are no employees qualified and willing to accept the position from within the unit, then the employee who is determined most qualified from among the three (3) employees with the most classification seniority within that Division who are qualified and willing to accept the position, in the next lower classification, shall have the right to be appointed provisionally to that position. If there are not at least three (3) eligible employees within the immediate lower classification, then the most senior employee(s) qualified and willing to accept the position from the next lower classification within the division shall be included for consideration to provide for selection from among three (3) candidates and so forth until there are not at least three (3) employees within that Division eligible for appointment.

(3) If no employee is selected within the Division, the Commissioner of the Division shall notify the Department of Human Resources office of the vacancy. The Department of Human Resources office shall send a notice of the vacancy to all Divisions and to all Union Stewards. The notice shall be posted in all work units. Employees shall have five (5) work days to submit an application to be considered for the position. These requests shall be filed with the Department of Human Resources. The qualifications of the applicants shall be determined by the Selection & Evaluation Section. The Department of Human Resources shall submit the list of qualified applicants to the Commissioner of the Division where the vacancy exists. The Commissioner of that Division shall appoint from this list to fill the vacancy provisionally.

(4) When an employee is appointed on a provisional basis, said employee shall become a permanent appointee in the classified service at the conclusion of the employee's promotion probationary period.

(c) In selecting non-competitive and provisional appointees, consideration shall be given to seniority, experience, work record/performance, attendance, disciplinary record, education/training, demonstrated ability to perform the job and the results of a structured interview and/or other competency examination, if the Division Head chooses to have interviews or a competency exam conducted. A structured standardized process shall be developed by the City to be used in making these selections with input from the Union. However, the City retains the right to make the final decision on the process.

(d) In the event of a vacancy in a Local 2058 bargaining unit classification for which there is no eligibility list and for which the City intends to fill by provisional appointment, the City shall follow the procedure below:

(1) The City shall fill the provisional appointment with any qualified employees within the Local 2058 bargaining unit pursuant to the terms of Article 2105.45, "Provisional Appointments", of the contract between the City and Local 2058.

(2) In the event there are no qualified employees within Local 2058 from which to make the provisional appointment and the procedures set forth in Article 2105.45 have been exhausted, then the City shall make the provisional appointment from among the interested candidates who are members of the Local #7 bargaining unit.

(3) In selecting a candidate for a provisional appointment to a Local 2058 position from among the bargaining unit members of Local #7, the City shall apply the language above.

(4) For purposes of selection to Local 2058 bargaining unit positions, "unit" as used in this section shall be the applicable Local 2058 work unit.

(e) Selection Review

Employees bypassed for selection more senior to the employee selected shall be informed, in writing, of the reason(s) they were not selected by the person making the selection. They may appeal the determination to the Department of Human Resources at Step 3 of the grievance procedure for a determination as to the adequacy of the reason(s) for the bypassing. Said appeal must be filed within three (3) work days of notification of non-selection. Appointment to the position shall not occur until a determination by the Department of Human Resources has been made. For promotions to Local 2058 bargaining unit positions, the determination at the Department of Human Resources level shall be final. For promotions to Local 7 positions, appeal may proceed through the grievance procedure. If the appointment is overturned, the original appointee shall be reinstated to that former position with no loss of seniority.

(f) Promotion Probationary Period

An employee promoted to a higher classification who is found to be unsuited for the work of the new classification, or who desires to return to the former position during the four hundred eighty (480) actual work hour probationary period, shall be reinstated to that former position with no loss of unit seniority. If the employee's former position has been filled, the employee filling that position may be removed and reinstated to their former position, and so forth, with no loss of unit seniority.

(g) Training Credit/Career Pathing

The City may develop training programs using either internal or external resources to enable employees to meet, in whole or in part, experience requirements for higher level Local 7 bargaining unit positions.

## **2115.50 Transfers**

(a) A transfer is either (i) a movement to a different division from a position in one classification to either a similar position in the same classification, or any position in the same salary group or (ii) movement in the same division to a different classification in the same salary group. In order to transfer the employee must meet the requirements for the classification and (i) the employee must have performed in the classification or (ii) the employee must have sufficient experience in a similar or related position as determined by the Civil Service Commission. Transfers shall be subject to the approval of the division to which or within which the transfer will occur and/or the Transfer Review Board.

(b) Local 7 members shall be allowed to transfer into this Bargaining Unit provided they meet the preferred qualifications as outlined in the Class Specification for Communications Operator. In the event no one meets the preferred qualifications, then preference shall be given to Local 7 members in accordance with Section 2115.46, "Vacancies".

(c) The City may request the transfer of an employee for the good of the service. The request must be made to the Department of Human Resources and must be handled under the rules as established by the Civil Service Commission.

(d) The transfer of permanent employees will be made by the City in accordance with the rules governing transfers and voluntary demotions as adopted by the Toledo Civil Service Commission. The following rules and procedures shall also apply:

(1) The employee must have completed three (3) years of service after the appropriate probationary period to be eligible for a transfer within the Communications Unit to include Police and Fire.

(2) The employee must request the transfer in writing to the Department of Human Resources. To be considered for transfer the request must be on file before the job requisition to fill the vacant position is received by the Department of Human Resources. The Appointing Authority may also initiate transfers for the good of the service apart from the procedure and priorities specified here and in Section 2115.46 "Vacancies", provided, however, that no employee from outside the Bargaining Unit may be transferred into the unit for the good of the service until the priorities for filling vacancies with Bargaining Unit employees have been exhausted.

(3) Transfer requests will be reviewed by a three-member Transfer Board consisting of a representative of the Civil Service Commission, the Director of the Department of Human Resources, and a representative of the employee Bargaining Unit into which the transfer is being requested or their designated representatives.

(4) The employee must have completed one (1) year of service after the appropriate probationary period for a transfer outside of the Communications Unit.

Upon approval by the Transfer Board, the transfer request will be placed on the appropriate transfer list and ranked by seniority. One transfer movement shall be allowed within a twelve (12) month period. One automatic waiver will be allowed on each transfer request. Modifications in this procedure may be approved by the Transfer Board for the good of the service.

(e) An employee transferred to a position in the same classification as provided herein, shall be probationary for a period of four hundred eighty hours (480) actual work hours after successful completion of on the job training. If the employee transfers to a position in a different classification, the employee shall be probationary for a period of nine hundred and sixty hours (960) actual work hours, after successful completion of on the job training. During this period either the employee or the City can request movement of the employee back to their former position. If the employee's former position has been filled, the employee filling that position may be removed and reinstated to their former position, and so forth.

(f) Bidding procedures established in Divisional Agreements shall take precedent over certification procedures that are the responsibility of the Civil Service Commission.

(g) Seniority shall be the determining factor in establishing priority for transfer requests unless the Transfer Board agrees to specific priority adjustments for the good of the service.

(h) Transfer requests are valid until December 31 of the year in which they are filed. After January 1 of each year, a new request must be filed with the Department of Human Resources.

## **2115.51 Voluntary Demotions**

(a) Local 7 members shall be allowed to take a voluntary demotion into this Bargaining Unit provided they meet the preferred qualifications as outlined in the Class Specification for Communications Operator. In the event no one meets the preferred qualifications, then preference shall be given to Local 7 employees in accordance with Section 2115.46, "Vacancies".

(b) A voluntary demotion is the movement by an employee's request from his permanent classification to a classification in a lower salary group that involves duties that the employee is qualified to perform.

(c) The voluntary demotion of permanent employees will be made by the City in accordance with the rules governing transfers and voluntary demotions as adopted by the Toledo Civil Service Commission. The following rules and procedure shall also apply.

(1) The employee must have completed one (1) year of service after the appropriate probationary period to be eligible for a voluntary demotion.

(2) The Appointing Authority may also initiate voluntary demotions for the good of the service apart from the procedure

and priorities specified here and in Section 2115.46, "Vacancies", provided, however, that no employee from outside the bargaining unit may take a voluntary demotion to the unit for the good of the service until the priorities for filling vacancies with Bargaining Unit employees have been exhausted.

(d) An employee voluntarily demoted as provided herein, shall be probationary for a period of four hundred and eight (480) actual work hours, after completion of on the job training. During this period either the employee or the City can request movement of the employee back to their former position. If the employee's former position has been filled, the employee filling that position may be removed and reinstated to their former position, and so forth.

(e) Bidding procedures established in Divisional Agreements shall take precedent over certification procedures that are the responsibility of the Civil Service Commission.

(f) Seniority shall be the determining factor in establishing priority for voluntary demotion requests unless the Transfer Board agrees to specific priority adjustments for the good of the service.

(g) Voluntary demotion requests are valid until December 31 of the year in which they are filed. After January 1 of each year, a new request must be filed with the Department of Human Resources.

### **2115.52 Probationary Period - Extension**

If an employee in the probationary period established in Section 2115.49, "Promotions", Section 2115.50, "Transfers", and Section 2115.51, "Voluntary Demotions", herein does not work, even though compensated, for more than twenty-four (24) hours during the probationary period, the period shall be extended by the number of hours the employee is off.

### **2115.53 Reinstatement**

Any permanent employee of the City of Toledo who resigns without fault or delinquency may request reinstatement within one year from the date of separation to a vacancy in any classification where permanent certification was previously held, assuming that individual continues to meet the listed requirements for such classification.

Any permanent employee on lay-off or displacement status who has been removed from a recall list as a result of exhausting the recall period provided in the Toledo Municipal Code for that bargaining unit may request reinstatement within a one year period from the date of such termination to a vacancy in any classification where permanent certification was previously held, assuming that the individual continues to meet the listed requirements for such classification.

The names of individuals approved for reinstatement shall be placed on a reinstatement list in alphabetical order. Such names shall then be supplied to Division and/or Agency Heads for consideration for appointment to vacant positions. Reinstated employees must pass any physical, medical and/or psychological examination as determined by the Commission.

Individuals approved for reinstatement who have not been appointed after a period of two years shall have their names removed from the reinstatement list.

### **2115.54 Alternates**

(a) An alternate is an employee who is temporarily assigned to perform duties above the employee's regular classification. An alternate may be temporarily assigned under the following circumstances:

- (1) To replace an employee who is off for any reason;
- (2) To fill a vacant position pending the making of a provisional or permanent appointment;
- (3) To temporarily supplement the staffing level authorized in the budget;
- (4) To provide training opportunities and credit as prescribed by the education and training program.

(b) The employee within the unit standing highest on the competitive eligible list for the classification that is to be filled alternately shall have the right to be temporarily assigned. If there is no employee within that unit on the competitive eligible list, then the temporary assignment shall be given to the employee from within that Division standing highest on the eligible list. In the case of a noncompetitive list, it shall be the most senior employee within the unit or Division on said list for Local 7 positions and one of the three (3) most senior for Local 2058 positions. If there is no employee within that Division, then the following procedure shall be used.

(c) For alternate appointments to Local 7 positions, the employee with the most unit seniority in the next lower classification within that unit with the demonstrated ability to perform the work of the classification, shall have the right to be temporarily assigned to the position until an eligibility list is established. The employee will be presumed to have the demonstrated ability to perform in the classification for purposes of this section if the employee meets the minimum requirements for the position. If the employee does not meet the minimum requirements, the employee will still be appointed if they satisfactorily demonstrate to division management their ability to perform in the position. Said demonstration may be by way of a competency exam and/or a demonstration period. If there is no eligible employee willing to accept the appointment within the immediate lower classification, then the employee with the most unit seniority with the demonstrated ability to perform the work in the next lower classification within that unit shall have the right to be temporarily assigned to that position and so forth until no employee willing to accept the appointment within that unit is eligible for the temporary assignment.

If there is no eligible employee(s) willing to accept the appointment within that unit, the employee willing to accept the appointment with the most classification seniority with the demonstrated ability to perform the work within that Division, in the next lower classification, shall have the right to be temporarily assigned to that position until an eligibility list is established. If there are no eligible employees willing to accept the appointment within the immediate lower classification, the employee with the most classification seniority willing to accept the appointment and with the demonstrated ability to perform the work in the next lower classification shall have the right to be temporarily assigned to that position and so forth until no employee within that Division is eligible for the temporary assignment.

(d) For alternate appointments to Local 2058 positions:

(1) In the absence of an eligibility list, the employee who is determined most qualified to do the work from among the three (3) most senior employees willing to accept the position in the next lower classification in the unit shall have the right to be appointed alternately to that position. If there is no eligible employee within the immediate lower classification, the employee determined most qualified to do the work from among the three (3) most senior employees willing to accept the position in the next lower classification shall have the right to be appointed alternately to that position and so forth until there are no employees within that unit eligible for appointment.

(2) If there are no eligible employees within that unit, the employee who is determined most qualified from among the three (3) employees willing to accept the position with the most classification seniority within that Division, in the next lower classification, shall have the right to be appointed alternately to that position. If there is no eligible employee within the immediate lower classification, one of the three (3) employees willing to accept the position with the most classification seniority within the Division in the next lower classification, shall have the right to be appointed alternately to that position and so forth until no employees within that Division are eligible for appointment.

(3) In selecting alternate appointees, consideration shall be given to seniority, experience, work record/performance, attendance, disciplinary record, education/training, and demonstrated ability to perform the job. Employees bypassed for selection more senior to the employee selected shall be informed of the reason(s) they were not selected by the person making the selection. They may appeal the determination to the Department of Human Resources for a final determination as to the adequacy of the reason(s) for the bypassing. Said appeal must be filed within three (3) work days of notification of the bypassing.

(4) For an employee to be qualified for consideration for appointment to a Local 2058 position under this section, the employee must meet the minimum requirements for the classification.

(e) The employee initially selected as the alternate shall continue to serve for the period that the division determines an alternate appointment is necessary, unless: the alternate is selected for an alternate appointment to a higher classification; or an employee with greater seniority returns who is qualified and interested.

(f) When an employee is worked as an alternate, the employee shall be paid at the alternate rate of the position worked for a single compensated day off, providing the employee worked in the alternate position for three (3) of the five (5) work days immediately preceding the single compensated day off. The employee shall be paid at the alternate rate of the position worked for more than a single compensated day off, providing the employee worked in the alternate position for six (6) of the ten (10) work days immediately preceding the compensated days off.

(g) For purposes of selection of alternates to serve in Local 2058 bargaining unit positions, "unit" as used in this section shall be the applicable Local 7 work unit.

(h) When an employee repeatedly refuses alternate appointments, they may be removed from the alternate list after written notification has been given to the employee and the responsible Union Steward stating the just cause for removal. The employee may only be reinstated at the written request of the employee and responsible Union Steward, with the written request including justification for the requested reinstatement.

#### **2115.55 Transfers of Lucas County E-911 Operators**

The City shall recognize the service of former employees of the Lucas County E-911 that are hired into the position of Communications Operator with the City of Toledo prior to December 31, 1997, and shall recognize his or her continuous service date with the Lucas County E-911 for the purpose of determining vacation entitlement only.

### **LEAVE OF ABSENCE WITHOUT PAY**

#### **2115.56 Leave of Absence Without Pay**

(a) A personal leave of absence without pay may be granted at the request of the employee upon the approval of the City and the Union in accordance with the rules enumerated in Sections 2115.56, "Leave of Absence Without Pay", through 2115.63, "Employment by Bargaining Agent".

(b) An employee on an approved leave of absence shall continue to accumulate seniority during the period of the employee's absence.

(c) It is the parties' express intent that this Chapter of the Code shall not be applied or interpreted in such a manner as to cause or constitute a violation of any law, specifically including PL 103-3 known as the Family and Medical Leave Act of 1993; provided, however, that any remedy for violation of this Act shall be as set forth in the Act.

#### **2115.57 Personal Leave - Up To Five (5) Days**

Any request for an excused absence for a period of five (5) work days or less may be granted by the employee's Chief or his designee without the necessity of preparing formal leave papers.

#### **2115.58 Personal Leave From Six (6) to Thirty (30) Calendar Days**

- (a) Upon the approval of the City and the Union, a leave of absence without pay may be granted for up to thirty (30) calendar days in any calendar year.
- (b) Request for such leave of absence shall be in writing, in triplicate, and shall be signed by the employee stating the reason(s) for said leave. One copy shall be retained by the employee, one copy by the Department of Human Resources, and one copy by the Union.
- (c) Employees on such leave will not suffer loss of position during said absence. When an employee returns from such an approved leave of absence, that employee shall return to the position in the service from which the leave was granted.
- (d) Furthermore, employees on such approved leave of absence for thirty (30) calendar days or less shall have their hospitalization-surgical-drug-life insurance benefits continued in force by the City during this period of time.

#### **2115.59 Personal Leave - More than Thirty (30) Calendar Days**

- (a) A leave of absence for more than thirty (30) calendar days in any calendar year may be granted provided the request requirements of Section 2115.57, "Personal Leave – Up to Five (5) Calendar Days", are met.
- (b) When a leave of absence for more than thirty (30) calendar days is granted, the employee shall not be entitled to be returned to the position from which the leave was granted, but will be placed in an open position in the same class or in a class at the same salary group provided a vacancy exists, except in the case of a leave of absence for the purpose of securing job related educational experience, in which case the employee shall be returned to the Division from which the leave was granted. The exceptions to this provision are as follows: the employee who is on an Industrial Injury Leave and in the City program with the Program Physician will be entitled to return to their position when determined to be physically able to return to work in their classification; or the employee is on a leave pursuant to the Family and Medical Leave Act of 1993 and is entitled to return as provided therein.

If an employee elects to go on Worker's Compensation pursuant to Section 2115.100(e), "Injury Pay", the City may fill that position after thirty (30) calendar days.

- (c) In no case shall a leave of absence be granted for a period of more than one (1) year, except as otherwise provided herein.
- (d) An employee on an approved leave of absence for more than thirty (30) days in any calendar year shall not receive hospitalization-surgical-prescription drug benefits during the period of such leave, however, the employee may arrange to prepay through the Division of Accounts the premiums necessary to continue the employee's hospitalization-surgical-prescription drug benefits in force during the period of time exceeding thirty (30) days the employee is on leave. Life insurance benefits will be maintained during said period. The exceptions to this are a leave pursuant to the Family and Medical Leave Act of 1993 or an industrial injury leave as provided in this Chapter.

#### **2115.60 Falsification**

No employee shall be granted leave of absence for the purpose of entering employment for another employer or becoming self-employed. If a leave of absence is falsely obtained and the employee is found to be employed by another employer or to be self-employed while on a leave, the employee shall be given the opportunity to resign from service with the City. If the employee fails or refuses to resign, then the employee may be discharged provided the discharge will be subject to review under the grievance procedure provided herein.

#### **2115.61 Parental Leave**

- (a) A female employee who has completed probation will be eligible for maternity leave for that period of time that she is physically incapable of performing her regular work related duties. The employee will be required to document her physical condition in a Statement of Attending Physician forwarded to the City. Application for such leave will be made on the approved form.
- (b) The employee shall be entitled to use as much of her accumulated sick time as she desires, in lieu of the Leave of Absence without pay, during this period of time. The employee may request additional release time prior and/or subsequent to the above-stated disability. Such requests shall be made as provided in Section 2115.56, "Leave of Absence Without Pay", through 2115.64, "Employment by Bargaining Agent".
- (c) It is the parties' express intent that this section shall not be applied or interpreted in such a manner as to cause or constitute a violation of any law, specifically including PL 103-3 known as the Family and Medical Leave Act of 1993; provided, however, that any remedy for violation of this Act shall be as set forth in the Act.
- (d) Any Local 7 employee shall be entitled to take up to ten (10) consecutive work days for the purpose of staying home to assist his/her family due to the birth or adoption of a child to the employee and his/her spouse. The ten (10) sick days when used in accordance with this Section shall have no effect on either bonus days as provided in Section 2115.100, "Bonus Days", or on annual sick leave conversion as provided in Section 2115.94, "Accumulation and Payment of Sick Days".

## **2115.62 Sick or Injury Leave**

When an employee who is sick or has been injured, and the employee has no sick days or injury pay left, and extended Sick or Injury Pay has not been granted, the employee may apply for a Leave Without Pay as provided in Section 2115.58, "Personal Leave from Six (6) to Thirty (30) Calendar Days", or Section 2115.59, "Personal Leave – More than Thirty (30) Calendar Days". The request must be accompanied by the Statement of Attending Physician verifying the necessity for such leave. The Leave may be granted for periods of thirty (30) calendar days or more depending on the condition of the employee, not to exceed two (2) years from the date the employee's sick pay or injury pay has been exhausted unless by mutual agreement this period is extended in writing.

## **2115.63 Employment by Bargaining Agent**

Notwithstanding the provisions of Section 2115.58, "Personal Leave from Six (6) to Thirty (30) Calendar Days", or Section 2115.59, "Personal Leave – More than Thirty (30) Calendar Days", an employee may be granted a leave of absence without pay for a period of not to exceed two (2) years for the purpose of entering employment by a Bargaining Agent with which the City of Toledo has entered a collective bargaining agreement covering employees of the City of Toledo. This period may be extended on a year-to-year basis by mutual agreement.

# **HOURS OF WORK AND OVERTIME**

## **2115.64 Work Schedules**

(a) Except for emergency situations and except as provided in Parts (b) and (c) of this section, work schedules in effect as of November 1, 1998 for the Police Operations and ten (10) months after Fire & Rescue becomes operational shall not be changed unless the changes are mutually agreed upon by both the City and the Union. Changes in scheduled days and start times shall not be proposed unless they are reasonably calculated to enhance efficiency, effectiveness, or public service. This provision shall not be construed to prevent the City from assigning work from one shift to another.

(b) If, under this Section, work schedule changes are proposed by the City, and the Union does not mutually agree to the proposed change within ten (10) work days, then the proposal of the City may be referred to binding arbitration at the request of the Department of Human Resources utilizing the expedited procedure set forth in Section 2115.24, "Expedited Labor Arbitration Rules". The Arbitrator shall review the proposed change to determine its reasonableness, including its impact on bargaining unit employees.

(1) In the event the Arbitrator finds that the proposed change is unreasonable, then the proposal will not be implemented.

(2) Where the proposal is found by the Arbitrator to be reasonable, it may then be implemented. When the decision is rendered in favor of the City, the Arbitrator shall have the authority to compensate for monetary losses to employees.

(c) Notwithstanding section (a) above the parties agree to review the work schedule on or before December 31, 1998. In the event the parties are unable to agree on a new schedule or continuation of the existing schedule, the manner will be referred to arbitration per (b) above.

## **2115.65 Starting/Quitting Time**

The starting time shall be determined on an operational basis and the employees shall be made aware of the established starting time for their unit. The established starting time for the unit shall be strictly enforced in accordance with Divisional Agreements and Policies. Changes in starting time shall be made in accordance with Section 2115.64, "Work Schedules". Work shifts shall consist of consecutive eight (8) hour days with a set starting and ending time.

The employee's workday shall be the regular scheduled work shift with a fixed starting and ending time. No employee shall leave his/her assigned post unless properly relieved or with permission from his/her supervisor.

In the event of a workday schedule change due to an emergency, no relief, or direct order from the supervisor, such change shall be only for the duration of the emergency, until properly relieved, or told by the supervisor to leave.

## **2115.66 Work Day**

The work day shall be the employee's regularly scheduled hours of work with a fixed starting and quitting time and shall consist of consecutive hours, except as broken for the lunch period unless otherwise specified within the Divisional Agreement.

## **2115.67 Work Week**

For purposes of the Fair Labor Standards Act (FLSA), the work period shall consist of five (5) eight (8) hour days within the seven (7) day work period established for the operational unit.

## **2115.68 Shift Work Schedules**

Work schedules showing the employee's shift, work days and hours shall be posted by the 25th of the preceding month. A list of key/lead assignments for the start of the next year shall be posted by December 10th of each year.

## **2115.69 Saturday & Sunday Shift Workers**

All employees shall be considered to have two (2) Saturdays and two (2) Sundays within any two-week period. The first day off shall be considered as a Saturday; and the second day off during the work period shall be considered as a Sunday; the third day off during the work period shall be considered as a Saturday, and the fourth day off during the work period shall be considered to be a Sunday.

#### **2115.70 Breaks and Lunch Hour**

Due to the unique characteristics of the work performed by Communications Operators, the City will comply with the Federal Labor Standards Act by providing a reasonable time for lunch and breaks based on operational needs.

It is further the intent of the parties to allow reasonable time between the regular shift and overtime for an employee to make arrangements necessary to work overtime.

The scheduling of breaks and lunch periods will be addressed in the divisional agreements.

#### **2115.71 Daily Overtime**

(a) All work in excess of the regularly scheduled eight (8) hour work day shall be overtime and compensated at a rate of time and one-half the regular rate or as otherwise provided. Overtime shall not be paid twice for the same hours.

(b) If an employee is requested to report back to work not contiguous to the beginning or end of the regular shift, the employee shall be guaranteed a minimum of four (4) hours overtime pay.

(c) If the employee is requested to report to work two (2) hours or less prior to but contiguous to the start of the shift, the employee shall be paid for actual time worked at the appropriate overtime rate.

(d) If the employee is requested to report to work more than two (2) but less than four (4) hours prior to but contiguous to the start of the shift, the employee shall be guaranteed four (4) hours overtime pay.

All such hours shall be paid at the appropriate overtime rate.

Overtime shall be filled according to divisional agreements.

#### **2115.72 Saturday/Sunday Overtime**

When a shift worker works their first scheduled day off, it shall be considered as a Saturday and shall be compensated at the time and one-half rate.

When a shift worker works their second scheduled day off, it shall be considered as a Sunday and shall be compensated at the double time rate.

For regularly scheduled employees (Monday through Friday), Saturdays shall be compensated at the rate of time and one-half provided such employees have been credited with forty (40) hours straight time pay in the scheduled work period. A minimum of four (4) hours pay at the appropriate overtime rate shall be guaranteed to such employees.

For regularly scheduled employees (Monday through Friday), Sundays shall be compensated at the rate of double time provided such employees have been credited with forty (40) hours straight time pay in the scheduled work period. A minimum of four (4) hours pay at the appropriate overtime rate shall be guaranteed to such employees. Overtime procedure for shift workers shall be mutually agreed upon by both parties on a divisional basis.

#### **2115.73 Holiday Overtime**

When a shift worker works on their scheduled day off for a holiday, they shall be compensated for the holiday plus double time for all hours worked on such day.

When a regularly scheduled employee (Monday through Friday) works on a holiday, the employee shall be compensated for the holiday plus double time for all hours worked on such holiday. A minimum of four (4) hours pay at the appropriate overtime rate shall be guaranteed to such employee.

When the holiday falls on a Saturday and the City celebrates the holiday on Friday, if an employee works Friday the employee shall be compensated at the double time rate for all hours worked on Friday. In the event the employee works on Saturday, the employee shall be compensated time and one-half for all hours worked on the Saturday. In the event the holiday falls on Sunday and is observed on Monday, this same rule shall apply.

#### **2115.74 Overtime Guarantee**

The overtime guarantee set forth herein shall not be applied to those situations where the employee is attending a pre-scheduled meeting; or to attend a required court hearing as a witness in connection with their City employment. In such cases the employee shall be guaranteed two hours pay at the appropriate overtime rate rather than the four (4) hours.

#### **2115.75 Time Off - Shift Assignments/Training**

All work in excess of an eight (8) hour shift within a twenty-four (24) hour period shall be compensated as overtime except where there is a Divisional Agreement that specifies otherwise.

When there is a change in shift assignments for the next year, when there is mandatory training, there shall be no less

than eight (8) hours off between shifts.

#### **2115.76 Overtime Rotating List**

(a) It is the intent of this section to schedule necessary overtime work as evenly as possible among the employees who have completed their original probationary period and are qualified to perform the necessary work. The seniority rotating overtime list shall be established as to job classification according to the employee's unit seniority and such list shall be kept current and posted. The list shall be followed except as otherwise provided by Divisional Agreements and current practices. The overtime rotating list will be re-established annually at the beginning of the first shift, January 1 of each year according to the aforementioned criteria. All overtime hours worked shall become part of the seniority rotating overtime list of all employees.

(b) Once established, the list shall be adhered to in the selection of employees to work overtime with the exception that: If a particular incident requires overtime to be worked contiguous to the shift in order to complete or further the progress on such incident, then the employee who has been working the incident on his/her regular shift may be allowed to continue with the same incident during the overtime period;

(c) It is also the intent of this section to facilitate overtime scheduling and call out. When an employee is requested to work and refuses such overtime assignment, the employee shall be charged with such overtime. When an employee repeatedly refuses all overtime in a rolling ninety (90) day period, they may be removed from the overtime rotating list for thirty (30) days after written notification has been given to the employee and the responsible Union Steward stating the just cause for removal. The employee may only be reinstated at the written request of the employee and responsible Union Steward, with the written request including justification for the requested reinstatement. Such reinstatement will not be unreasonably withheld. Upon reinstatement the affected employee will be charged with one hour more than the maximum amount of overtime within their job classification on the overtime rotating list.

(d) An employee can be voluntarily removed from the overtime rotating list by submitting a written request to the Bureau Head. To be reinstated to the overtime rotating list an employee must submit a request in writing and will be charged with one (1) hour more than the maximum amount of overtime within their job classification on the overtime rotating list. This does not preclude an employee from being forced for overtime.

#### **2115.77 Probationary Employees - Overtime**

New employees shall not be eligible to work overtime until thirty (30) calendar days after they have been notified in writing that they can perform their work duties unassisted. When a new employee becomes eligible to work overtime, the employee shall be charged with the hours of the employee having the greatest amount of overtime hours in the appropriate unit of the Communications Bureau.

#### **2115.78 Overtime--Promotions, Transfers, Demotions**

(a) Employees that are promoted into a different classification or either transferred or demoted to a different operational unit shall be eligible to work overtime thirty (30) calendar days after they have been notified in writing that they can perform their work duties unassisted.

(b) Employees who have been promoted, transferred or demoted shall be charged with the average amount of overtime hours in the appropriate unit of the Communications Bureau and shall be so placed on the overtime rotating list.

#### **2115.79 Overtime Refusal**

(a) When an employee refuses overtime and it is imperative that overtime be worked, a rolling forced overtime rotating list will be used. This list will be established by reverse seniority. Forced overtime will be filled by ordering the operator(s) who have the longest period of time from their last force. In case of a tie, the least senior operator(s) will be forced. This is a rolling list and will start over at the beginning of each calendar year, beginning first shift - January 1. Employees off on scheduled vacation days shall not be forced when other employees are available.

(b) An employee who has accepted overtime who cannot work the overtime must notify their department thirty (30) minutes before the start of the overtime, or following normal daily notice procedures if different. An employee who does not work after accepting the overtime will be charged with double the amount of overtime hours worked. An employee who fails to work accepted overtime on three (3) occasions in a six (6) month period and has not provided the advance notice, shall be removed from the overtime rotating list for six (6) months and may be reinstated thereafter under the provisions of Section 2115.76, "Overtime Rotating List". This paragraph shall take effect thirty (30) days after distribution of the 2002 contract books.

(c) Emergency overtime is defined as a non-scheduled overtime situation which threatens the health and safety services of the citizens of Toledo. Issues involving emergency overtime regarding safety forces will be addressed in divisional agreements.

#### **2115.80 Premium Hours**

It is the intent of the parties hereto that the overtime premium hours shall be kept equal within eight (8) hours for day workers and sixteen (16) hours for shift workers.

No employee shall work more than sixteen (16) continuous hours except in emergency situations where other qualified

personnel are not available.

### **2115.81 Assignments - Inequality**

At the time that overtime assignments are made known to the responsible steward or during the course of working the overtime, if errors in the application of the overtime rotating list become known to the steward, he or she shall advise the supervision of any assignment errors so corrections may be made prior to or during the performance of work. Once advised that there is a mistake, supervision still has the prerogative to make the assignments. The responsible steward may then file under the grievance procedure. Employees not called for or offered the overtime when entitled shall be made whole for their loss. If overtime assignments are not made known to the responsible steward and a mistake is made, any affected employee shall be made whole for his loss. Under no circumstances will a steward's action regarding the above negate management's responsibility to make an employee whole for his loss.

### **2115.82 Compensatory Time**

An employee who has worked overtime shall be allowed to receive compensatory time off in lieu of pay at the appropriate overtime rate, if the employee so elects, provided that the employee does not accumulate compensatory time in excess of Fair Labor Standards Act Limitations. The employee shall receive this time off with pay in such a way as not to impair the operations of the work unit. In the absence of such election by the employee, he/she shall receive pay as provided herein. An employee must take all compensatory time in excess of one hundred sixty (160) hours by April 30 of the year following the year in which the time was earned. If the employee has not taken the time by that date, then they shall be paid for all hours not taken in excess of one hundred sixty (160) hours in the next regular pay period. Payment will be made in a separate check.

Overtime worked at alternate status may be elected as compensatory time and the difference between hourly rates will be paid with the pay period of the hours worked. Any remaining vacation time must be scheduled before compensatory time is permitted after October 1st of each year.

### **2115.83 Compensated Time Considered as Time Worked**

Holidays, vacations and other time off to which the person is entitled as a matter of rights under or by virtue of any ordinance of the City and this Agreement shall be considered as time worked except when determining hours worked for purposes of compliance with the Fair Labor Standards Act.

## **GENERAL PROVISIONS**

### **2115.84 Injury at Work**

An employee who may be injured during the course of the day's employment shall be paid a minimum of eight (8) hours pay for that day, if such injury requires the employee to leave the job for medical treatment by a professional medical care provider.

### **2115.85 Provisions for Safety**

(A) The City shall continue to make provisions for the safety of its employees consistent with the rules/requirements of the Ohio Employment Risk Reduction Standards and such rules as may otherwise be adopted by the Public Employment Risk Reduction Advisory Commission of the Ohio Department of Industrial Relations, Division of Occupational Safety and Health, provided, however, remedies shall be pursuant to the provisions of H.B.308.

(B) Employees are to comply with all General Safety Rules of the City and any special Divisional safety rules and shall be required to use safety equipment provided to them.

(C) The parties will establish a labor-management Health and Safety Committee. The Union will be represented on this Committee by the Local Union President or Chief Steward and one (1) other designated representative. The City will be represented by a designee of the Director of Human Resources and by Commissioners or other administrators designated by the Appointing Authority based on specialty areas (e.g., construction, transportation, pollutants, etc.). This Committee may also include representatives from other bargaining units within the City. The Committee will be required to consider all issues brought before it regardless of the bargaining unit impacted.

(1) This joint Committee shall review all general and/or special divisional safety rules for compliance with required safety standards and, wherever possible, such rules shall be adopted City- wide.

(2) This joint Committee will also perform the following functions:

(a) The Committee may recommend periodic inspections of the various locations when necessary by staff of the Department of Human Resources.

(b) The Committee shall make recommendations for the correction of unsafe or harmful work conditions and the elimination of unsafe or harmful practices as reported to the Committee by representative(s) of the Department of Human Resources and Divisional Safety Committees.

(c) The Committee may recommend investigation of any potential worker exposure to dangerous substances, fumes, noise, dust, etc.

(d) The Committee shall be provided written identification of any potentially toxic substance to which the workers are exposed together with material data sheets, if any.

(e) The Committee may develop a safety award program which may include cash awards and/or other premiums that, upon mutual agreement between the Appointing Authority and the Union, may be adopted/implemented during the terms of this collective bargaining agreement.

(f) The Committee shall develop other cost containment measures, which shall include:

1. Enhanced managed care and utilization review;
2. Increased claims control and claims audits;

(g) The Committee shall develop annual goals, objectives, and timetables directly aimed at reducing Workers' Compensation costs. Goals and objectives not met within established timeframes shall be critically reviewed by the committee. If the City, in its sole discretion, is dissatisfied with progress in meeting goals and objectives or with the committee's action or inaction, the City may take such actions as it deems necessary to exact cost containment.

(h) The Committee shall review and analyze all reports of work-related injury or illness, as submitted by the representative of the Department of Human Resources and recommend procedures for the prevention of accidents and disease and for the promotion of health and safety of employees.

(i) The Committee shall promote health and safety education and/or participate in such programs.

(j) The Committee may ask the advice, opinion and suggestions of experts and authorities on safety matters and recommend to the representative of the Department of Human Resources that experts and authorities from the Industrial Commission of the State of Ohio, Division of Safety and Hygiene, and the Toledo Lucas County Safety Council as well as international representatives of the Union be utilized on an as-needed basis as determined by the Committee.

(3) Sub-committees may be formed as deemed necessary by the co-chairpersons to study issues, develop reasonable solutions, and report back to the committee.

(4) Annual savings directly attributable to the cost containment measures provided herein shall be placed in a Workers' Compensation fund to be used as a reserve for payment of future cost increases. Savings shall be considered directly attributable to cost containment measures when a direct correlation can be established between a measure adopted herein and a per employee reduction in the City's cost in providing both injury pay and Workers' Compensation benefits from the preceding year.

(5) Union representatives will receive their regular pay while on Committee business.

(6) The Committee shall meet regularly, on at least a monthly basis, and attendance shall be required. Actions taken in the absence of a bargaining unit representative shall be binding upon that bargaining unit. The City will provide minutes of each meeting.

(D) Divisional Safety Committees shall be formed which will include the Commissioner or designee, a representative designated by the Union and other divisional personnel mutually agreed upon.

#### **2115.86 Excluded Employees**

Employees excluded from this Title of the Code shall not perform work covered by the listed classifications and ordinarily assigned to employee(s) covered herein except during emergencies where all positions have to be monitored until help arrives.

Supervisory training on all communication equipment will be ongoing through the year.

This section does not preclude supervisors from relieving employees for breaks and lunches, nor is it intended to prevent supervisors from maintaining proficiencies in the various assignments and equipment throughout the year.

#### **2115.87 Bulletin Boards**

The City agrees to furnish bulletin boards in each Unit. The Union shall have the right to post Union notices or notices of social gatherings on the bulletin boards. No article shall be removed from the bulletin boards without first securing permission from the Union. Any person found guilty of this act shall be disciplined. Bulletin board placement shall be mutually agreed upon.

#### **2115.88 Working Below Classification**

No employee(s) shall be required to work below their classification(s) if there is an alternate available to fill the position. This section does not preclude members of a Local 7 crew or a team from agreeing to interchange functions in order to most productively perform a job under a mutually-agreed team concept approach.

Employee(s) temporarily required to work below their classification(s) or pay rate shall receive their regular rate of pay.

#### **2115.89 Working Out of Classification**

No employee shall be required to work out of classification if there is a vacancy and an eligibility list for that classification,

except alternates may be used as provided in Section 2115.54, "Alternates", and except crews and teams may interchange functions per Section 2115.88, "Working Below Classification".

Employees required to work above their classification(s) or pay rate shall receive the higher rate of pay for said higher classification(s); except that coverage for normal lunch hours and breaks for a position with some overlapping responsibilities shall not entitle the employee to the higher rate of pay. The employee shall be paid the starting rate for said higher classification unless that rate is less than four percent (4%) greater than the rate the employee was earning in his regular classification, in which case the employee shall be paid four percent (4%) more than his regular rate. An employee appointed on an alternate basis to positions in the Local 2058 Bargaining Unit shall be paid the full Local 2058 rate for the higher classification where the start rate is not at least four percent (4%) greater than his regular rate.

### **2115.90 Resignation**

Any employee whose removal from the service is sought for disciplinary reasons may resign at any time and the record shall show that the employee resigned of the employee's own accord.

Any employee who wishes to leave the City's service in good standing shall sign a written resignation with the Department and/or Division Head at least two (2) weeks in advance of the date the employee wishes the resignation to be effective.

Employees planning to retire should provide notice of their anticipated approximate retirement date the year before the retirement is planned.

### **2115.91 Other Employment Compatibility**

No employee of the City shall accept outside employment that is adverse to or in conflict with the employee's municipal employment. In the event said employee shall be injured while engaged in outside employment, the employee shall not be entitled to any sick leave benefits which have been accumulated by virtue of their employment by the City.

### **2115.92 Change of Name-Address-Phone**

When an employee changes his/her name, address or phone number, he/she shall within five (5) working days notify his/her supervisor on the appropriate form(s). Such changes are to be forwarded by the supervisor to the Department of Human Resources who shall correct the employee's records and file such change in the employee's personal history file. The Local shall receive a copy of such notification for all employees in the bargaining unit.

### **2115.93 Part-Time Employees**

When it is determined that a new permanent part-time employee is required within a division, the City and bargaining unit will agree to the new addition. If an agreement cannot be reached the parties may submit the dispute to expedited arbitration for the resolution of the issue. This must be done prior to filling the position.

## **HEALTH AND WELFARE**

### **2115.94 Accumulation and Payment of Sick Days**

Regular employees of the City hired on or before June 30, 1993 shall be credited with sick days in accordance with the following formula July 1, 1993: One and one-quarter (1 1/4) days shall be credited for each month of service, not to exceed fifteen (15) days per calendar year. Such days shall continue to accumulate at such rate without any maximum limitation. An employee granted a leave of absence for thirty (30) calendar days or more shall not accumulate sick pay during the period the employee is on such leave.

Those employees hired on or before June 30, 1993 shall have the option of maintaining their current sick leave accrual and severance pay plan as set forth in Part A or in the sick leave conversion plan as set forth in part B below. This election shall occur during the first six (6) months of this agreement.

Employees hired on or after July 1, 1993, shall be covered exclusively by the sick leave plan in Part B.

(A) Employees who elect to maintain their current sick leave accrual and severance pay plan shall be credited with sick days in accordance with the following formula 7/1/93: one and one-quarter (1 1/4) days shall be credited for each month of service, not to exceed fifteen (15) days per calendar year. Such days shall continue to accumulate at such rate without any maximum limitation. Provided the conditions of Section 2115.119, "Termination and Severance Pay", have been met, unused sick leave accumulated to the time of termination shall be paid at the rate of one-half (1/2) for all such accumulated sick time up to two hundred (200) days and full pay for accumulated sick time in excess of two hundred (200) days.

An employee who dies as the direct result of injuries sustained in the course of employment with the City shall receive payment for the full accumulation of sick pay at the time of death.

(B) (1) Employees hired on or before June 30, 1993, who elect the sick leave conversion plan set forth herein will bank accumulated sick leave through June 30, 1993. This banked sick leave accumulation will be used as the need for sick pay arises or may be converted to cash under the terms set forth in Part (B)(3). Provided the conditions of Section 2115.119, "Termination and Severance Pay", have been met, unused sick leave from that banked effective June 30, 1993, will be paid as follows at the employee's regular rate as of June 30, 1993: one-half for all banked sick time up to two hundred (200) days and full pay for accumulated sick time in excess of two hundred (200) days.

(2) On and after June 30, 1993, employees covered by this plan shall be credited with sick days in accordance with the following formula: eight (8) hours per month, not to exceed ninety-six (96) hours per calendar year, until four hundred and twenty (420) hours have been accumulated, then ten (10) hours per month not to exceed one hundred and twenty (120) hours per year, thereafter; provided however, that if the employee's accumulation drops below four hundred and twenty (420) hours or fifty percent (50%) of their total potential accumulation, whichever is greater, inclusive of sick pay used and converted, then the accrual will revert to seven (7) hours per month until the applicable threshold is regained unless the employee has suffered a catastrophic illness or injury which causes the employee's accumulation to drop below this level. Such hours shall continue to accumulate at such rate without any maximum limitation.

(3) Sick leave hours not used by the end of the year can either be turned in for payment of a percentage of salary as indicated below or carried over until retirement or separation.

The maximum number of sick hours allowed for year-end payment will be forty (40). Employees using twenty (20) hours or fewer of sick leave in the preceding calendar year shall be entitled to a conversion to pay at fifty percent (50%). Employees using more than twenty (20) but forty (40) or fewer hours shall be entitled to a conversion at thirty-three percent (33%). Employees with fewer than four hundred twenty (420) hours of accrued sick time or who have used more than forty (40) hours in the preceding calendar year, shall not be eligible for this conversion privilege. The employee's accrued sick leave shall be reduced by the number of hours converted to cash.

(4) Provided the conditions of Section 2115.119, "Termination and Severance Pay", have been met, unused sick leave accrued after June 30, 1993, will be paid as follows at the employee's regular rate at the time of termination: thirty-three percent (33%) of salary for the first three hundred and twenty (320) hours and fifty percent (50%) of salary for the next three hundred and twenty (320) hours for a maximum of six hundred and forty (640) hours.

(5) An employee who dies as the direct result of injuries sustained in the course of employment with the City shall receive payment of the full accumulation of sick pay at the time of death.

### **2115.95 Sick Pay Usage**

Sick pay is pay to the employee for the necessary absence from duty on a regularly scheduled work day because of illness, injury or exposure to contagious disease suffered by the employee not in the course of their employment, or illness in the employee's immediate family that necessitates the employee's absence from work or would result in serious hardship to the employee's family. Attendance to the immediate family member at the hospital while undergoing serious medical attention shall be included under this provision. Sick pay shall not be made for illness or injury incurred as a result of outside employment or as a result of any action within the control of the employee such as intentional self-inflicted wounds, use of drugs or alcoholic beverages (except for the treatment of abuse), nor for injuries sustained while committing a felony or other similar action. For the purpose of this section, immediate family shall include only the employee's father, mother, sister, brother, spouse or child. Where a special relationship exists between the employee and any other person for whom the employee would not normally be granted sick pay, said sick pay will be granted upon pre-authorization of this relationship by the Department of Human Resources. An affidavit stating the existing relationship and certifying that the person resides at the employee's household and is dependent on the employee for their well being must be approved by the Department of Human Resources prior to the utilization of any sick pay. The family illness provision shall be for a limited period of time (not to exceed seven (7) work days) to enable the employee to secure other arrangements for the care of the member of the employee's immediate family. Usage of "Sick Family" of over three (3) consecutive work days shall require a "Statement of Attending Physician".

An employee shall be permitted to substitute a physician's statement not on a City "Statement of Attending Physician" form, provided the statement shows treatment dates, diagnosis, that the employee was unable to work for the period covered, and that the employee is able to fully return to work. If the statement is accepted, a "Statement of Attending Physician" will not be required; if not, then a statement on the City's form is to be submitted within three (3) work days afterward.

When police employees call off sick for duty, they shall do so sixty (60) minutes prior to scheduled start time of shift. When fire employees call off sick for duty, they shall do so thirty (30) minutes prior to scheduled start time of shift. Police and fire personnel shall be considered scheduled to report to duty their next scheduled day.

Sick time use for doctor, dental or medical appointments at the beginning of the shift shall be used in four (4) hour increments. Employees who use sick time in conjunction with the beginning of the shift can report to work at the end of the four (4) hours. Sick time used for doctor, dental or medical appointments that are not in conjunction with the beginning of the shift shall be used as needed. However, employees who leave work can not return. Employees shall bring in written documentation for all appointments under this section. Employees shall notify their supervisor of appointments as soon as possible.

In accordance with these provisions, it is recognized that sick pay is limited to the necessary absences from duty due to illness or non work related injury of the employee or immediate family member that necessitates the employee's absence from work. It is also recognized that employees of the City of Toledo are engaged in the performance and delivery of these services. Good attendance on the part of the City's employees is necessary.

It is further recognized by the current contract provisions specifically Section 2115.96 Reporting Proof of Illness, and Section 2115.98 Excessive Absenteeism that any absence from duty as the result of claimed illness or injury may be investigated during the employee's normal working hours.

The City does not intend to act arbitrarily, capriciously, unreasonably or in bad faith when investigating sick leave nor does the City intend to use sick leave investigation to harass an individual employee. Nor does the City intend to make home visits or calls without taking into account the individual's attendance record.

### **2115.96 Reporting - Proof of Illness**

(a) The employee, while absent on sick pay, must notify the supervisor under agreed practices of either sick personal or sick family only. When claiming sick days an employee must remain at home caring for their illness or that of their sick family member, unless away receiving medical attention such as in a hospital, at a doctor's office or at a pharmacy, and be able to document the absence from home. If the sick family member does not reside in the home of the employee, the employee shall provide notice when reporting off that they will be at the sick family member's home and its location. The employee shall then remain at the sick family member's home, unless away receiving medical attention such as in a hospital, at a doctor's office or at a pharmacy, and be able to document the absence from home. An employee who is recuperating from surgery or some other major medical condition who is advised by their physician that a change of location would hasten their recovery, may do so with the approval of the Department of Human Resources. An employee who is recuperating from surgery or other medical condition and who has not been released to return to work by a physician within ten (10) work days does not have to remain at home provided that their physician's statement indicates that remaining home is not necessary to their full and fast recovery. The employee then shall be allowed under these conditions to continue to receive sick pay benefits.

(b) This procedure will begin the first day of the month after the execution and signing of the Collective Bargaining Agreement. When an employee has used five (5) days or forty (40) hours of sick time in a calendar year that is not FMLA approved, or is not otherwise documented as specified below, then the employee shall be notified that use of more than six (6) days or forty-eight (48) hours of non-FMLA or undocumented sick time that year may be cause for discipline. When the employee's sick time usage that is neither FMLA approved nor otherwise documented exceeds six (6) days or forty-eight (48) hours, the employee may be subject to discipline pursuant to the PDP for that usage and for each additional non-FMLA approved or otherwise undocumented sick time that calendar year.

"Documented sick time" for purpose of this paragraph and paragraph (c) shall be restricted to notes or other documentation from a medical practitioner's office (physician, nurse practitioner, nurse, dentist, chiropractor, physical therapist) and school officials/school nurses on medical stationery.

(c) An employee who goes home sick after reporting for work shall receive written notification for the second occurrence in a calendar year that has not been documented in accordance with paragraph (b) above. The written notification shall instruct the employee that the same conduct in the future will result in the employee being required to submit appropriate documentation concerning the reasons for leaving early for the remainder of the calendar year. This provision shall not be applicable when the employee has a pre-approved doctor's or dentist's appointment nor shall it apply where an employee is authorized to report to work for a partial work day, either before or during that day, when the employee would otherwise take the entire day as sick leave. Authorization to report to work under this provision will be requested by direct verbal communication between the employee and the employer or its designee and confirmed as soon as practicable in writing. Failure to provide a statement of attending physician or documentation when required by this agreement may subject the employee to disciplinary action.

(d) Any absence from duty as the result of a claimed illness or injury may be investigated during the employee's normal working hours by an authorized City representative.

(e) Any employee found guilty of abusing sick pay benefits provisions set forth herein or whose reasons for absence are falsified shall be subject to appropriate disciplinary action.

### **2115.97 Sick Pay Extension**

In the event of the extended illness of an employee and after having exhausted all accumulated sick days, bonus days and vacation days, then a request may be made to the Department of Human Resources for extended sick pay benefits. The employee's prior work record with regard to usage of sick days and the employee's seniority will be taken into account in determining the eligibility of the employee for such extension. In the event the request is not granted, the employee shall be notified of such action. The answer to the request must be furnished in writing to both the employee and the Union. In the event a sick and accident insurance benefit mutually agreeable is secured, then this benefit shall be discontinued.

### **2115.98 Excessive Absenteeism**

(a) Employees of the City of Toledo are engaged in the performance and delivery of vital services to our community. In order to ensure the efficient delivery of these services, good attendance on the part of the City's employees is necessary. Moreover, recurring and excessive absenteeism is disruptive to the City's operations, costly to the City and its residents, and detrimental to the morale and efforts of employees who maintain a good work record. Therefore, it is the intent of the parties: (1) to work toward programs and understandings that will reduce absenteeism; (2) to encourage and recognize good attendance on the part of employees; and (3) to cooperate in correcting excessive absenteeism on the part of employees.

(b) This provision in no way detracts from the City's right to investigate illnesses or to bring charges against any employee for abuse of sick leave or for single instances of unexcused absence.

### **2115.99 Injury Pay**

(a) Employees injured in the course of and arising out of their employment under such circumstances as would cause such injury or disability to be compensable under the Worker's Compensation Laws of the State of Ohio will be eligible to participate in the City's injury pay program. The Cost Containment Committee referenced below will select the program physician(s) and medical facilities from submitted proposals.

(1) Employees sustaining a work related injury that requires medical attention at a medical treatment facility (i.e., sprains, simple fractures, etc.) will be transported to and treated by a program physician or medical facility. The program physician, along with rendering a diagnosis and prognosis, will determine if the employee is capable of returning to regular duties, whether a transitional work assignment is appropriate, and the necessary rehabilitation plan to be followed; this plan will include the duration of any transitional work assignment not to exceed ninety (90) calendar days and indicate any physical therapy the injured employee may require. The program physician(s) may require follow-up medical evaluations.

(2) Employees sustaining a work related emergency/trauma injury (i.e., life threatening, severe body injury) may be treated at any medical treatment facility to which emergency medical personnel transport them. The employee will subsequently be examined by the program physician. The designated program physician will determine if the employee is capable of returning to regular duties or if a transitional work assignment is appropriate and the necessary rehabilitation plan to be followed; this opinion will include the duration of any transitional work assignment not to exceed thirty (30) calendar days and indicate any physical therapy the injured employee may require. The program physician(s) may require follow-up medical evaluations.

(3) An employee may, after the initial evaluation by the program physician, elect to continue treatment with their personal physician provided the program physician's recommendations are followed. The employee will sign any necessary waivers to allow their personal physicians to release information to the program physician. The employee's personal physician will be the physician of record for Workers' Compensation purposes.

(b) Upon the program physician's determination that an injury requires the employee to be off work, wherein the employee reports said injury within twenty-four (24) hours of the incident of illness or injury, paid leave shall be granted by the Department of Human Resources for up to sixty (60) days.

Should such disability exceed sixty (60) calendar days, the Director of Human Resources, on application therefor and proof of continued disability, may extend the period during which such person is carried on the regular payroll. The length of such extended period or periods shall not exceed two (2) years.

Injury pay extension requests, accompanied by a "Statement of Attending Physician" setting forth the illness or injury and the need for additional time, must be presented to the Director of Human Resources no later than one (1) week after the expiration of the original sixty (60) day disability period. If the above requirements are not fulfilled, the request for injury pay extension may not be considered.

(c) Workers' Compensation: At the expiration of the injury leave granted, if the employee is still unable to return to work, the employee may elect in writing to use accumulated sick and other accrued time. If the employee is still unable to return to work, payment of normal wages will be stopped and the Industrial Commission will be requested to begin weekly payment under the provisions of the Workers' Compensation Act.

(d) If the opinion of the employee's treating physician conflicts with that of the program physician and such opinion is presented to the City in seven (7) calendar days of the program physician's evaluation, and if the physicians cannot agree after consultation, the employee will be referred for a third opinion. The Cost Containment Committee referenced below will establish a panel of occupational health specialists for third opinions. The third opinion shall be determinative of the employee's injury pay status under the contract and shall not be subject to further appeal or review. If the third opinion is consistent with the program physician's plan and the employee fails to abide by the rehabilitation plan, or if the employee enters and later drops out of the plan, then the City can recoup injury pay advanced from the employee's sick time accumulation. If the employee does not have a sufficient sick time balance, the City shall recoup the injury pay by reducing future sick leave earnings by one-half until the injury pay is fully recouped.

(e) Employees who sustain injuries in the course of and arising out of their employment under such circumstances as would cause such injury or disability to be compensable under the Worker's Compensation Laws of the State of Ohio who choose not to be evaluated by the program physician or who choose not to follow that physician's recommended program and go only to the physician of their choice are not entitled to any paid injury leave benefits contained in this collective bargaining agreement. Notice of intent not to participate in the City's injury program must be given within three (3) work days of the injury. Any and all work-related injury claims will be processed through and conform with the Workers' Compensation Act.

(f) False Claim: The City reserves the right to recoup benefit payments to any employee who is guilty of submitting a false claim, or abuse of the privileges covered in this Section, or working for another employer while on injury leave, and may take disciplinary action.

(g) An employee working in a transitional work assignment will be compensated at their regular rate of pay. The employee will not be entitled to bid rights, overtime, etc., since the employee is not fit to perform all of the duties of the classification. With regard to the rights of other employees, the employee in the transitional assignment will be deemed not to be working out of classification.

Transitional work assignments will be identified by the Department of Human Resources in consultation with those divisions who have appropriate tasks available. The currently available assignments and the tasks involved in each division will be provided in writing to the Union. No transitional work assignment shall be made to a task which has not been

identified in writing to the Union, except by mutual agreement. Additionally, it is not the intent of the parties to supplement the workforce in classifications where there has been a reduction due to unfilled vacancies, layoff or attrition.

In order to identify tasks within each division which may be appropriate for transitional work assignments, the Union will designate a divisional transitional work coordinator to interface with the Department of Human Resources. The divisional transitional work coordinator, divisional safety committee, and Human Resources will work to further identify appropriate transitional work tasks within each division. Human Resources and the divisional transitional work coordinator, in consultation with the manager/division head, will, on a case-by case basis, consult regarding placement of employees in appropriate transitional work assignments. Medical issues involving an employee's ability to perform duties will be determined by the Program physician.

If issues regarding availability of transitional work assignments cannot be resolved at the divisional level, the matter shall be brought to the Chief Operating Officer or his/her designee for final determination, subject to arbitration under Section 2115.23, "Arbitration" and 2117.23, "Arbitration".

It is not the intent of this section to allow divisions to provide transitional work above that identified nor is a division required to provide transitional work where no such appropriate tasks have been identified and recognized.

(h) An employee whose treating physician has declared the employee to be "maximum medically improved" (M.M.I.) using the tie-breaking feature in part (d) of this section, shall have the right to fill a position according to the following priorities:

- (1) Return to the same job as long as it does not violate their physical restrictions;
- (2) Return to the same job with reasonable accommodations for their physical restrictions;
- (3) Return to a vacant position in the same salary group for which he/she qualifies that does not violate their physical restrictions;
- (4) Return to a vacant position in a lower salary group for which he/she qualifies.

In the event that an employee cannot be returned to work in their regular job or alternate position, or is applying for a P.E.R.S. disability retirement, if the employee has followed the injury pay program the City will continue injury leave pay for a period of forty-five (45) days. After forty-five (45) days, the employee may use any sick and/or vacation time that they have accrued. The Department of Human Resources will continue to review the vacancy list every two weeks for a position which the employee would qualify. Where appropriate, if the employee qualifies for Bureau of Workers' Compensation rehabilitation the City will cooperate with the Bureau in allowing on the job training to help qualify the injured worker for a position.

(i) With the intent of this injury program being to minimize time away from work and return the healthy employee to active employment as soon as possible, the Joint Labor-Management Health and Safety Committee (Section 2115.85) will also serve as a cost containment committee for Workers' Compensation.

### **2115.100 Bonus Days**

A regular full-time employee of the City shall be given Bonus Days provided the employee has earned sick pay benefits in the previous year, in accordance with the Bonus Day Table set forth below. For the purpose of bonus vacation, unpaid sick days taken will be applied in the same manner as paid sick days.

#### **BONUS DAYS CANCELLATION TABLE**

##### **SICK DAYS TAKEN**

<b>MONTHS WORKED</b>	<b>SICK DAYS TAKEN</b>									
	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>910</b>
12	5	5	5	4½	4	3½	3	2	1	½0
11	4½	4½	4½	4	3½	3	2½	1½	½	0
10	4	4	4	3½	3	2½	2	1	0	
9	3½	3½	3½	3	2½	2	1½	½	0	
8	3	3	3	2½	2	1½	1	0		
7	2½	2½	2½	2	1½	1	½	0		
6	2	2	2	1½	1	½	0			
5	1½	1½	1½	1	½	0				
4	1	1	1	½	0					
3	½	½	½	0						

### **2115.101 AFSCME Health and Welfare Plan**

The parties agree that employees shall continue to be covered by the AFSCME Health and Welfare Plan, which includes, (1) life insurance, (2) hearing care plan, and (3) an increase of \$5.25 for the vision care plan. The cost of this plan shall be borne by the City, provided that the total cost shall not exceed twenty dollars (\$20.00) per employee, per month during the life of this agreement. The increase in cost and coverage from Vision Level I to Vision Level II shall only become effective when the terms of the Memorandum of Understanding between the City of Toledo and AFSCME Local 7, Reverse "Me Too"

Health Care Changes, are met.

### **2115.102 Hospitalization; Prescriptive Drug; Dental Insurance**

(a) GENERAL PROVISIONS: The City shall continue to provide hospital, medical, surgical, major medical, outpatient diagnostic laboratory services, prescription drug, dental care and benefits under the terms and conditions set forth below.

(i) Coverage shall be provided to each employee, each employee's spouse and all unmarried dependent members of the employee's family to age twenty-three (23). Spouses who are both employed by the City must jointly elect only one coverage: Traditional or HMO. A new election may occur after an open enrollment due to circumstances such as layoff or other separation of one of the spouses, death, or divorce. Where spouses who are both employed have dependents from prior marriages for whose hospitalization coverage they are responsible they shall be exempt from this joint election requirement. Where the spouse of a City employee is employed by a different employer and he or she desires to waive his or her employer's plan in favor of City coverage, the City is not obligated to place the spouse on the City's plan. In cases of demonstrated hardship due to excessive co-premiums (e.g., 40% co-premiums or premium payments equaling 30% or more of earnings), special consideration will occur.

(ii) Coverage for this purpose shall be furnished through the insurance carrier(s) selected exclusively by the City on a fair fee basis until such time as some other insurer may be selected or the City determines that it would be in its best interest to self insure these benefits.

(b) The following health care cost containment procedures shall be effective for all employees:

(i) Second surgical opinions, pre-admission notification or certification, emergency care limitations, post-admission concurrent review, outpatient surgery, continued treatment and technological review, medical case management, planned discharge, and other procedures as may be established under the medical review programs established by the City shall be followed. Failure to follow the procedures shall result in only eighty percent (80%) coverage for necessary care.

(ii) Full-time employees covered by another health care program due to marriage or other reasons may waive their City of Toledo coverage and receive twenty-five thousand dollars (\$25,000.00) in additional life insurance coverage. This shall also be extended to those employees whose spouses are also employed by the City.

(iii) Coverage for nervous and mental treatment is limited as follows. Inpatient care shall be maintained at a maximum of thirty-one (31) days per calendar year. Outpatient coverage shall be expanded to a maximum of twenty-two (22) visits per year at fifty percent (50%) co-insurance.

(iv) Coverage for drug and alcoholism treatment is limited as follows. Inpatient care shall be maintained at a maximum of thirty-one (31) days per calendar year. Coverage is limited to a maximum of twenty-five thousand dollars (\$25,000.00) lifetime benefits for all inpatient and outpatient care. Inpatient coverage shall be at one hundred percent (100%) for an individual's first admission, seventy-five percent (75%) for a second admission, and fifty percent (50%) for a third admission. No coverage shall be provided beyond three (3) admissions per lifetime or thirty-one (31) days per calendar year. Outpatient coverage shall be expanded to a maximum of two thousand five hundred dollars (\$2,500.00) per calendar year at fifty percent (50%) co-insurance. Employees using drug and alcoholism treatment benefits must use the City employee assistance program.

(v) The panel of providers, and/or Preferred Provider Organization (P.P.O.), selected by the City for managing and providing nervous and mental, drug and alcohol treatment must be utilized. The City will request proposals toward a managed care plan for this purpose with an effective date of June 1, 1999. The Union shall have a seat on the selection committee, but the right of final selection is reserved to the City. The Schedule of Benefits in effect as of February 9, 1999 shall be maintained, without additional co-pays or deductibles.

(c) The following cost sharing plan and cost coverage restrictions shall be effective for all employees:

(i) There shall be a five hundred dollar (\$500.00) annual per person maximum on chiropractic care and a one thousand three hundred dollar (\$1,300.00) annual per person maximum on physical therapy, both subject to the major medical deductible (\$100/individual and \$200/family) and co-insurance (80%/20%).

(ii) Major medical benefits shall be paid to a lifetime maximum of one million dollars (\$1,000,000.00) per person with a one hundred dollar (\$100.00)/individual and two hundred dollar (\$200.00) family deductible and 80%/20% co-payment; provided that coverage for nervous and mental, drug and alcoholism treatment is limited per paragraph (b)(iii) and (iv).

(iii) There shall be a sixty-five dollar (\$65.00) co-pay for all emergency room visits, which shall be waived if the individual is admitted or if the visit is between the hours of 8:00 p.m. and 9:00 a.m., or on a Saturday after 12:00 Noon, or on a Sunday.

(d) Effective June 1, 1994 the availability of a Health Maintenance Organization (HMO) and preferred provider Organization (PPO) shall be discontinued. All employees including those in the Traditional Plan, shall thereafter be enrolled in the Consortium Plan. Consortium Plan coverage and benefits shall be at the Traditional Plan levels as of June 30, 1993 except as otherwise provided here or in the plan document. Consortium Plan Medical Providers shall be restricted to those hospitals, physicians, and other care providers designated in the plan as developed by the City in conjunction with the Cost Containment Committee. It is understood that the City is currently utilizing the hospital and ancillary providers panels through the Cooperative Health Network (CHN). It is further understood that the CHN physicians' panel may be implemented by the City without further consultation with the cost containment committee. However, the schedule of benefits shall not be diminished.

(e) The cost containment committee shall be formed from among representatives of the various Bargaining Units and representatives of the City and shall be maintained. The committee shall develop other cost containment measures, which shall include:

1. Enhanced managed care, such as pre-certification, concurrent review, and utilization review;
2. Changed coverage or benefits, such as increased deductibles, limitations on coverage, and contributions from employees;
3. Increased claims control, such as coordination of benefits, subrogation, worker's compensation deferral, patient audits, and claims audits;
4. Alternate delivery systems, such as preferred provider organizations for specific benefits and direct provider negotiations; and,
5. Development of a participative employee plan by which employees will be encouraged to contain costs, audit bills, correct lifestyles, maintain wellness, and undertake other cost saving measures.

The committee shall meet regularly, on at least a monthly basis, and attendance shall be required. Actions taken in the absence of a bargaining unit representative shall be binding upon that bargaining unit.

The committee shall develop annual goals, objectives, and timetables directly aimed at reducing health care costs. Sub-committees may be formed as deemed necessary by the co- chairpersons to study issues, develop reasonable solutions, and report back to the committee. Goals and objectives not met within established timeframes shall be critically reviewed by the committee. If the City, in its sole discretion, is dissatisfied with progress in meeting goals and objectives or with the committee's action or inaction on 1, 3, 4, and/or 5 measures listed above, the City may take such actions as it deems necessary to exact cost containment. Changes in measure 2 must be by agreement of the parties.

(f) The Union releases the City from any obligation to expend monies currently in the healthcare savings fund created pursuant to former paragraph (g) of this section on future cost increases or for wellness programming. The Union further releases the City from any obligation to consult with the cost containment committee relative to the transfer or expenditure of those funds.

(g) Coverage for well baby care, pap tests, and office visits shall be offered to all employees enrolled under conventional coverage as follows:

- (i) well baby care limited to routine examinations and immunizations for an infant until the infant's 1st birthday;
- (ii) pap tests as well as office fee will be paid in full once every twelve (12) months;
- (iii) office visits for routine wellness, services and treatment of illness or injury rendered in the physicians office, including physical examinations and family planning shall be subject to a fifteen dollar (\$15.00) co-payment, which shall be counted toward the individual's major medical deductible;

Fees that the physician charges for the services under paragraphs (i), (ii), and (iii) shall be paid on the same basis as other covered services (e.g. Usual, customary, and reasonable). Payment for services under Part (g)(i) and (iii) will be made for the first one hundred twenty-five (\$125.00) per single contract or three hundred dollars (\$300.00) per family per calendar year collectively for well baby care (after the federally specified limits have been met) and for office visits. The ten dollar (\$10.00) office visit co-pay shall not be counted toward the \$125/300 limits. After deductibles are reached, payment shall then be under the major medical plan; provided, however, that the bill shall be reduced by the fifteen dollar (\$15.00) office visit co-pay before the 80%/20% co- payment formula is applied.

(h) The City shall continue to provide a major dental program which provides the following:

Type A Services: Preventative 100%

Type B Services: Major and minor restorative 80%

Type C Services: Orthodontia 60%

Deductible for Type B Services: \$50.00 per person per year maximum payment of \$1,000.00 per year.

Maximum lifetime benefit for Type C Services for any covered person \$1,000.00. Coverage limited to dependent children under age 19.

This program shall continue in effect for the duration of this agreement.

(i) The City shall provide a three tier closed formulary prescriptive drug purchase program with a co-payment structure of a six dollar (\$6.00) co-payment Tier 1 drugs (generic); a fifteen dollar (\$15.00) co-payment for Tier 2 drugs (preferred brand name drugs); and a thirty dollar (\$30.00) co-payment for Tier 3 (non- preferred brand name drugs). This program will include a generic drug substitution option. The city shall select the provider for the formulary drug program who shall group drugs according to determination made by the providers therapeutic committee as it deems necessary. The City may select an alternative carrier at its option.

The City may implement managed care for the prescriptive drug program. This would allow for an evaluation of the interaction of an individual's different prescriptions on a voluntary basis. Recommendations could then be made to the

individual and his/her physician for more effective drug therapy.

The coverages herein for dental and prescription drug shall be under either an individual or family contract as may be appropriate. The selection of the insurance carrier to provide the coverages herein is the exclusive right of the City.

(j) A reopener over the terms of this section may occur upon ten (10) days notice by the City if the City's percentage rise in medical services costs in the year 2000 is more than seven percent (7%) greater than the industry actuarial trend for Northwest Ohio. The base cost for this purpose will be the average annual full-time equivalent employee cost for medical services for the combined calendar years 1998 and 1999. In calculating the City's percentage rise, claims for an individual that total more than twenty-five thousand dollars (\$25,000.00) shall be excluded from consideration from both the base cost and the year 2000 cost. If agreement cannot be reached within thirty (30) days after commencement of the reopener, the parties shall select an arbitrator using the selection procedure set forth in section 2115.23, "Arbitration". The arbitrator shall conduct a hearing and render a decision following the provisions of the Ohio Public Employee Collective Bargaining Law at Section 4117.14(G), notwithstanding the provisions of 4117.14(D)(1).

In consideration for the right to reopen on this basis during the term of the 1999 Collective Bargaining Agreement, the City shall not exercise its rights under Paragraph (e) above to take such actions as it deems necessary to exact cost containment through measures 1, 3, 4, and/or 5. The existence of this reopener provision, or this clause of that provision, does not prevent the parties from agreeing through the cost containment committee or otherwise to cost containment measures during the term of this agreement.

(k) Starting on April 1, 2010, the City will deduct by monthly payroll deduction from each employee an amount for their health care coverage in accordance with the following schedule based on their respective salary level and type of healthcare coverage selected.

Annual Salary	Single Plan	Single+1	Family
Below \$30,000	\$35.00	\$55.00	\$75.00
\$30,001 to \$50,000	\$70.00	\$90.00	\$110.00
\$50,001 to \$70,000	\$105.00	\$125.00	\$145.00
\$70,001 and above	\$140.00	\$160.00	\$180.00

(Ord. 105-10. Passed 3-30-10.)

### **2115.103 Public Employees Retirement System of Ohio**

(a) The City will continue to participate in the Public Employees Retirement System of Ohio as provided by the Ohio Revised Code.

(b) Additionally, the City will implement a PERS pickup program for bargaining unit employees. This plan will be in accordance with Internal Revenue Service regulations and Ohio Attorney General opinions, whereby State and Federal Income Taxes on employee pension contributions by all bargaining unit members will be deferred.

(c) The City will train each payroll clerk to assist and complete forms for each person applying for disability and regular retirement. The payroll clerk's responsibilities will be limited to completion of forms.

(d) Effective April 1, 2010, the City will not pay any portion of the employees' share of the pension contribution, unless otherwise required by law.

(Ord. 105-10. Passed 3-30-10.)

### **2115.104 Mentor/Uniform Maintenance Allowance**

In order to improve the efficiency and effectiveness of the 911 Communications Center and in recognition of the unique contribution made by the civilian Communication Operators, the City and the Union agree to: promote the concept of Communication Operator peer mentors/trainers. All Communication Operators who have completed one hundred sixty (160) actual work hours will serve as mentors and/or trainers for fellow employees. Mentors shall assist in the support and development of fellow employees. Mentors shall assist fellow employees in managing the personal demands of emergency service. Peer trainers shall assist in developing the technical skill of a fellow Communication Operator by monitoring his/her work and offering suggestions for improvement.

Further, the City recognizes the cost associated with the cleaning and maintenance of required uniforms.

In recognition of the importance of these issues and in order to promote a positive, supportive work environment, the City agrees to compensate all eligible Communication Operators with annual lump sum payments as follows: Payments will be made in a separate check.

payable in the paycheck for the last full pay period in July, 2006	\$450
payable in the paycheck for the last full pay period in July, 2007	\$450
payable in the paycheck for the last full paycheck in July, 2008	\$450



(e) The six major holidays are New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

### **2115.107 Funeral Pay**

(a) A regular full time employee shall be granted three (3) days of funeral pay to arrange and/or attend the funeral of a member of the employee's immediate family. For the purpose of this section an employee's immediate family shall include father, mother, brother, sister, spouse, child, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepmother, stepfather, grandmother, grandfather, grandchild and any other relative residing in the household of the employee.

(b) In the event of the death of the employee's father, mother, brother, sister, spouse or child, the employee, upon giving notice, shall have the right to take up to an additional three (3) days of sick pay. Such additional time shall be charged to the employee's accumulated sick days. But the sick time usage under this section shall have no effect on "Bonus Days", Section 2115.100 "Reporting Proof of Illness" provision, and the accumulation threshold under Section 2115.94 "Accumulation of Sick Days". At the employee's option, the employee may choose to use vacation and/or compensatory time to the additional three days.

In the event the third day of such period of mourning falls on Saturday, Sunday or a recognized holiday, then the employee shall be allowed the first scheduled work day thereafter. Should a death or burial in the immediate family occur in a city located more than one hundred and fifty (150) miles from Toledo, an additional two (2) days for travel shall be granted and paid.

(c) An employee may take one (1) or two (2) days to attend the funeral and reserve a day to attend to legal matters made necessary by the death, but such time provided herein shall be taken within one (1) week after the date of burial. This benefit shall also be extended when the relative is a veteran being returned for burial.

(d) One (1) day of funeral pay shall be granted to attend the funeral of an employee's foster mother, foster father, aunt, uncle, first cousin, niece, nephew, sister-in-law, brother-in-law, if such funeral occurs on a regular work day and if such employee was scheduled to work that day.

(e) Where a special filial relationship exists between the employee and any relative for whom the employee would normally be granted the above one (1) day of funeral pay, three (3) days of funeral pay will be granted upon furnishing of an affidavit to the Department of Human Resources setting forth the facts as to the special relationship.

(f) Relationships within this policy which came into existence solely on account of marriage of an employee shall be considered dissolved on the same day said marriage is dissolved by law or death.

The relationships of aunt, uncle, first cousin, niece or nephew shall not be considered to come into existence on account of the marriage of an employee.

The wife or husband of an employee's spouse's sibling shall not be considered to be a sister-in-law or brother-in-law of the employee.

(g) An employee shall be granted funeral pay only after the employee furnishes evidence of the death of a person with whom the employee had a qualifying relationship.

### **2115.108 Jury Duty**

(a) Any regular employee of the City who is required to serve on the jury of any court of record shall be paid the regular rate of pay during such period. In order for an employee to receive pay under this section, the employee must secure a certificate from the Clerk of Court in which they served evidencing the fact of their having been required to serve.

(b) Shift workers who serve on Jury Duty on regularly scheduled days off shall be granted compensatory time off, or overtime pay.

(1) When an employee receives notice for jury duty in any Court of Record of Lucas County, Ohio or in any adjoining county, the employee shall present such notice to their immediate supervisor. When notified by the court to report for jury duty on a date certain, a time report shall be completed and signed by the appropriate court official for each day during jury service setting forth the time of arrival and departure from the court. Such record shall be presented by the employee to their supervisor upon return to work.

(2) When an employee is in court for jury duty for less than four (4) hours, the employee shall report to work immediately for the balance of the eight (8) hours. This eight (8) hour "shift" will start with arrival time for jury service as documented in (1). There will be a minimum of eight (8) hours between the end of this "shift" and the next shift as described in Part (c).

(c) Employees shall receive no less than a minimum of eight (8) hours of time off prior and after any such jury appearance. These employees shall not be eligible for recall during these time periods.

### **2115.109 Unemployment Compensation**

The City shall continue to extend the provisions of the Ohio Unemployment Compensation Law to City Employees.

### **2115.110 Educational Reimbursement and Training Programs**

(a) The City will reimburse tuition costs for courses taken at an educationally accredited college or university by permanent employees. Part-time employees shall receive reimbursement on a pro-rated basis based upon actual hours worked the preceding year. Such course work must be approved prior to enrolling by submitting documentation that the course is necessary toward a degree which is required for a position in the City's classified service or job-related technical courses to the Department of Human Resources.

(b) The City will also reimburse for technical courses, courses must either be directly related to the employee's current job or directly related to an obvious career path. The determination of job relatedness or career path relatedness shall be made by the Director of Human Resources. To be directly related to an obvious career path the course work must be within the same work series (e.g. labor, clerical) and within three (3) normal promotional steps, technical courses will be reimbursed at a grade "C" rate. Reimbursement shall be limited to four (4) courses per year.

(c) The City will reimburse eighty percent (80%) for a grade of "C", ninety percent (90%) for a grade of "B" or one hundred percent (100%) for a grade of "A". The City will reimburse the appropriate percentage of the cost of tuition and general fees only, for ten (10) credit hours per quarter or fifteen (15) credit hours per semester. Reimbursement shall be limited to tuition levels charged by the University of Toledo for academic coursework and by University of Toledo Community and Technical College for technical coursework. These costs will be reimbursed upon the documented presentation of a "C" or 2.0 grade or better.

(d) Any employee participating in the tuition reimbursement program who resigns or retires (non-disability) must repay the tuition reimbursement paid by the City for courses taken less than two (2) years prior to the date of termination. If necessary, this amount will be deducted from the employee's termination pay or his/her final check.

(e) Non-accredited schools will be included.

(f) If licensing or certification is a requirement of a classification held by an employee, the City shall pay the employee's licensing or certification expenses.

(g) The City shall provide training and/or educational programs for full-time permanent employees to enhance career development under a program established jointly by the parties.

(h) In the interest of having its employees keep pace with advanced technology, the City will endeavor to train those employees that may be affected as the result of a technological work change as the need arises. Training in these new areas shall be done by City personnel. However, when it is beyond the scope of City personnel, training may be conducted through outside services. These costs shall be borne by the City.

(i) The City shall continue to provide the opportunity for Local 7 members to prepare for the commercial drivers license (CDL) examination. This opportunity will be offered on a quarterly basis whenever a minimum of six (6) employees have signed up for the training. The training will be made available on Saturdays or other non-work hours without pay.

All employees shall be permitted to enroll but preference shall be provided to those appointed to a classification that requires a C.D.L. who have been permitted to obtain the license during their probationary period. Employees who are promoted, transferred, voluntarily demoted or bumped through the layoff procedure into a classification that requires a C.D.L., shall be allowed the course of their probationary period to acquire their C.D.L. provided reasonable accommodation can be made on the job.

All employees shall be permitted the use of city equipment to take the C.D.L. road test on City time if necessary.

### **2115.111 Part-time Employee's Seniority and Benefit Rights**

Seniority shall accrue to permanent part-time employees based upon the total hours of continuous service with the City, and shall be used for the purpose of determining layoff, bumping, and recall rights.

Part-time employees will be eligible for transfer, promotion, layoff, bumping and recall rights the same as full-time employees based on their accrued seniority.

The following benefits shall be made available to all permanent part-time employees, as of January 1, 1988, on a pro-rated basis based on actual hours worked the preceding year or years:

Sick Days

Holiday Pay

Funeral Pay

Jury Duty

Vacation

Severance Pay

Pension Benefits

Safety shoes and safety glasses shall be made available to all permanent part-time employees as of January 1, 1988, as provided in 2115.104, "Mentor/Uniform Maintenance Allowance".

Permanent part-time employees may request medical, prescription, dental and life insurance benefits, but must pay a pro-

rated share of their cost. The pro-rata share shall be computed every six (6) pay periods based upon their actual hours worked during those six (6) periods. The rate shall be that then in effect for the benefits specified.

**2115.112 Safety Glasses**

The City will provide a purchase program to its employees who because of the regular course of their work exposure require in its opinion safety glasses.

The purchase program shall make these items available to the employee at sixty percent (60%) of the cost of the item to the City with the remaining forty percent (40%) to be paid by the employee. A payroll deduction system will be established whereby the employee can authorize payment for items purchased under this program through the automatic deduction from the employee's paycheck.

**2115.113 Base Annual Salaries**

(a) Effective July 1, 2006 employees shall continue to receive the wage rates that were in effect on June 30, 2005 and as set forth in the following salary schedule:

**RATES IN EFFECT JUNE 30, 2005**

	<b>75%</b>	<b>85%</b>	<b>95%</b>	<b>Full Rate</b>
7	13.480	15.280	17.076	17.974

(b) Effective the first full pay period in January of 2006 employees who are Communications Operators and paid at a pay grade 7 shall receive a one and one-half percent (1 ½%) wage increase in their base wage rate. Employees who have elected to become Senior Communications Operators will remain at their previous rate.

**RATES EFFECTIVE JANUARY, 2006**

<b>SALARY GROUP</b>	<b>75%</b>	<b>85%</b>	<b>95%</b>	<b>Full Rate</b>
7	13.682	15.509	17.332	18.244
8*	13.480	15.280	17.076	17.974

(c) Effective the first full pay period in January of 2007 employees in pay grade 7 shall receive a two percent (2.0%) increase in their base wage rate. Those designated as Senior Communications Operators shall receive a one and one-half percent (1.5%) increase.

**RATES EFFECTIVE JANUARY, 2007**

<b>SALARY GROUP</b>	<b>75%</b>	<b>85%</b>	<b>95%</b>	<b>Full Rate</b>
7	13.956	15.819	17.679	18.609
8*	13.682	15.509	17.332	18.244

\* Senior Communication Operators

(d) Effective the first full pay period in January of 2008 employees at the pay grade 7 rate working as Communication Operators shall receive a three percent (3%) wage increase in their base wage rate. Those designated and working as Senior Communications Operators shall receive a two percent (2%) increase.

**RATES EFFECTIVE JANUARY 2008**

<b>SALARY GROUP</b>	<b>75%</b>	<b>85%</b>	<b>95%</b>	<b>100%</b>
7	14.375	16.294	18.209	19.167
8*	13.956	15.819	17.679	18.609

\* Senior Communication Operator

(e) Effective May 16, 2008 those who are designated as Senior Communications Operators will be reclassified and placed in a salary group eight.

<b>75%</b>	<b>85%</b>	<b>95%</b>	<b>Full Rate</b>
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8	15.164	17.187	19.207	20.218
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(f) Effective June 30, 2008 those designated and working as Senior Communications Operators will receive a three percent (3%) increase and paid as follows:

**RATES EFFECTIVE JUNE 30, 2008**

	<b>75%</b>	<b>85%</b>	<b>95%</b>	<b>Full Rate</b>
8	15.619	17.703	19.783	20.825

(g) An employee who is promoted or who works above his classification in a classification within the Local 7 Bargaining Unit will receive the Promotional Starting Rate of the class to which the employee has been promoted for the employee's 1st 2080 hours in that classification unless the Promotional Starting Rate of the new classification is either less than four percent (4%) greater than the rate the employee was earning in his/her regular classification, or less than the 75%, 85%, or 95% rate for the classification. If the Promotional Starting Rate of the new classification is not at least four percent (4%) greater than the rate the employee was earning in his regular classification, then the employee will receive a four percent (4%) increase over his/her present rate. If the promotional starting rate is less than the 75%, 85%, or 95% rate for the classification, then the employee shall be paid at the nearest step rate that is at least four percent (4%) greater than the employee's current rate. At no time would a permanent employee earning the promotional start rate be paid less than an employee in that classification in the division with less seniority who is in one of the step rates. When an employee has served 2080 hours as an alternate to a position to which the employee is subsequently promoted, he/she shall continue to receive the full rate.

**HOURLY PROMOTIONAL START RATE**

<b>SALARY GROUP</b>	<b>6/30/02</b>	<b>1/2004 (2.0% inc.)</b>	<b>1/2005 (2.0% inc.)</b>
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**HOURLY PROMOTIONAL START RATE**

<b>SALARY GROUP</b>	<b>6/30/02</b>	<b>1/2004 (2.0% inc.)</b>	<b>1/2005 (2.0% inc.)</b>
1	10.473	10.682	10.896
2	11.072	11.293	11.519
3	11.763	11.998	12.238
4	12.512	12.762	13.017
5	13.359	13.626	13.899
6	14.410	14.698	14.992
7	15.551	15.862	16.179
8	16.892	17.230	17.575
9	17.501	17.851	18.208
10	18.415	18.783	19.159
11	19.455	19.844	20.241
12	20.646	21.059	21.480
13	22.010	22.450	22.899
14	23.583	24.055	24.536
15	25.384	25.892	26.410

(h) Employees hired on or after January 1, 1992, that are not placed from within municipal employment, will be paid at the Step Rate of the salary provided in this section as follows:

**STEP**

**PERCENTAGES**

1st Year	75% of Full Rate
2nd Year	85% of Full Rate
3rd Year	95% of Full Rate
4th Year (Full Rate)	100% of Full Rate

Employees hired on or after January 1, 1992 who are promoted, transferred, or demoted before completing their third year of City employment shall go to the same step of their new salary group until their anniversary date for that step. A year of service for purposes of the step plan shall mean twelve (12) full months rather than 2080 compensated hours. Employees who are off payroll more than twenty (20) work days during a year of service shall have their year of service extended by

their number of uncom pensated work days.

(i) Whenever it becomes necessary to determine the hourly or daily rate of pay for an employee whose rate is stated herein as an annual salary, the determination shall be made by dividing the annual salary by two thousand eighty (2,080) to determine the hourly rate, or by two hundred and sixty (260) to determine the daily rate of compensation for the employee.

**2115.114 Shift Premium**

(a) Employees working on the second (2nd) shift shall receive forty cents (.40) per hour in addition to their base hourly wage. The second (2nd) shift shall be considered to be any employee who starts four (4) hours after the regularly scheduled first (1st) shift starting time.

(b) Employees working on the third (3rd) shift shall receive fifty cents (.50) per hour in addition to their base hourly wage. The third (3rd) shift shall be considered any employee who starts four (4) hours after the regularly scheduled second (2nd) shift starting time.

**2115.115 Saturday-Sunday-Holiday Pay**

Shift workers working straight time on Saturday shall be paid an additional thirty-five cents (.35) per hour and shift workers working straight time on Sunday shall have their Sunday shift pay increased to sixty cents (.60) per hour. Shift workers working on six (6) major holidays and Christmas Eve and New Years Eve shall be paid ten (10) hours at their regular straight time rate.

**2115.116 Meal Allowances**

(a) Whenever an employee works four (4) hours overtime contiguous to the regular shift, or when an employee has been called out for emergency overtime which exceeds four (4) hours, or whenever an employee works on scheduled overtime more than eight (8) hours, meals of a value of at least eight dollars (\$8.00) or its equivalent shall be provided for the employees on the job site at the expense of the City. The food will be procured and transported to the job site by the supervisor, or under the direction of the supervisor.

(b) An additional meal shall be furnished for each additional four (4) hour period the employee works. In the event that the supervisor does not procure the meal, then the employee may procure the meal or meals and shall be reimbursed by the City in an amount not to exceed eight dollars (\$8.00) for each meal procured.

**2115.117 Longevity**

Regular employees of the City appointed prior to July 1, 1982, shall be entitled to and be paid longevity in accordance with the following formula:

(a) Employees hired prior to July 1, 1972, shall be paid longevity based on their years of service with the City as of that date.

(b) Employees hired after July 1, 1972, shall be paid longevity based on their continuous service to the City of Toledo after that date. Any employee hired after July 1, 1972, shall not receive credit for any prior service with the City for the purpose of determining the longevity pay of which the employee may be entitled.

<b>CALENDAR YEAR OF CONTINUOUS SERVICE</b>	<b>PERCENT OF ANNUAL BASE HOURLY RATE</b>
--	---

After 5 years	2%
After 10 years	4%
After 15 years	6%
After 20 years	8%

(c) An employee shall receive a pro rata percentage based on the portion of the calendar years in which the employee reaches the plateaus of years of service as set forth above at the appropriate rate indicated.

(d) The employee's "Annual Base Hourly Wage" shall be the base rates shown below which were in effect July 1, 1976, with no further increases to result from any cost of living or other increase in the base rate during the life of this agreement.

**Base Wage Rates Effective July 1, 1976**

<b>Salary Group</b>	<b>Salary Rate</b>
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7	5.122
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(e) Employees shall continue to receive longevity pay based on the 1976 base rates. Employees promoted will receive longevity pay based on the rate designated below for their new salary group, or retain their present base rate if it is greater.

## NEW LONGEVITY BASE RATES

EFFECTIVE JANUARY 1, 1983

7

\$ 5.768

(f) The employee's "Annual Base Hourly Wage" shall be determined by multiplying the amount allocated to the salary group the employee is in as of November 1st of the year for which the computation is being made by 2,080 hours. The longevity payment shall be made in a separate check to be distributed to the employees on the first payday in December of the year for which payment is being made.

### 2115.118 Travel Allowance

All City employees who are requested to use their private motor vehicle on City business shall be compensated based upon the IRS rate which may be deducted from the employee's federal income tax without having to itemize specific expenditures as established by the Internal Revenue Service letter. When an employee has had a City car assigned then they shall not have the City car reassigned and be requested to use their personal car on City business for periods of less than one (1) week. No City employee shall be required to use their private motor vehicle for City business unless that requirement was a condition of original appointment. The determination as to which positions are furnished a City owned motor vehicle may be made by the Mayor except assignment under these conditions shall according to seniority (example - most senior employee has the choice as to whether he/she wants to be assigned a motor vehicle or be put on the allowance or provided with a pool car). In the event the employee has had a City-owned motor vehicle and it is taken away, the employee may either receive the mileage allowance for use of their vehicle as provided herein, or the employee shall be furnished a pool car. In no case can a City owned vehicle be reassigned to a more senior employee than the employee from which it was taken unless agreed to by the senior employee. The Mayor shall promulgate regulations covering the use of private vehicles on City business that are not in conflict with the provisions contained herein.

Forms shall be provided for the adequate reporting of mileage under this section and must be prepared by the employee and submitted monthly.

In the event the employee is recalled to work, they shall be entitled to the allowance for each time they are required to report for work on any day.

### 2115.119 Termination and Severance Pay

Employees who terminate their employment with the City for any reason shall have their termination pay computed in the following manner.

(a) They shall be compensated for any earned vacation and bonus vacation including any vacation carried over from the previous year plus vacation earned the year in which the employee terminated. The computation of the vacation earned in the year in which the employee terminated shall be in accordance with the following table.

Entitled to 2 weeks -- .916 x the number of months worked

Entitled to 3 weeks -- 1.333 x the number of months worked

Entitled to 4 weeks -- 1.750 x the number of months worked

Entitled to 5 weeks -- 2.166 x the number of months worked

Entitled to 6 weeks -- 2.584 x the number of months worked

(b) In addition to the above, the employee shall be paid for any holidays worked for which they have not been compensated either in the form of pay or time off. If the employee was entitled to a discretionary holiday and has not taken it and is terminated on or before June 30th, they shall receive pay for the discretionary holiday.

(c) An employee shall also be paid longevity computed on a prorated basis for those number of months worked that year.

(d) In addition to the amount set forth in a, b, and c above, employees who retire, or die while in the employment of the City, or who separate in good standing from employment after twenty-one (21) years of service shall also receive severance pay for unused sick time in accordance with the provisions of Section 2115.94, "Accumulation and Payment of Sick Days".

In the event the employee has died as the direct result of injuries sustained in the course of employment with the City, his or her estate shall be paid full accumulated sick time at the time of termination.

(e) Employees may purchase up to three (3) years prior service credit from OPERS using their severance pay under the following conditions:

(1) Employee must submit his/her OPERS statement of cost form to the division head no more than one hundred twenty (120) calendar days and no less than ninety (90) calendar days before the intended date of retirement. The employee must also sign a PAF II specifying the retirement date at that time, an individualized severance agreement and release devised by the city which shall include but not limited to, the employees effective date of retirement.

(2) The employee must have adequate severance pay available at the time of application to purchase the amount of

prior service credit requested. The City is not responsible for purchasing or processing paperwork for prior service credit over and above the amount of severance pay available at the time of application. The City responsibility is limited to submission of the specified payment to O.P.E.R.S.

(3) The employees severance pay shall be reduced by the amount submitted to O.P.E.R.S. to purchase the prior service credit and the remaining severance pay shall be paid to the employee after retirement.

#### **2115.120 Payday**

(a) The employees shall be paid bi-weekly every other Friday. Shift workers shall be paid any time after the end of the first shift on Thursday. Employees who are not scheduled to work on Friday shall receive their paycheck on Thursday.

(b) The pay period shall be for hours worked within a fourteen (14) calendar day period beginning on Friday and ending on Thursday.

(c) In the event that an error has occurred which results in a shortage in the employee's pay and the amount owed is not in dispute, then a special check, upon the request of the employee, shall be prepared within three (3) work days.

(d) In the event that a holiday falls on a payday, the employees shall receive their paychecks on the day prior to the holiday. When the Friday payday falls in the week of Thanksgiving, the employees shall receive their paychecks on the Wednesday prior to the Thanksgiving holiday.

(e) The paycheck of an employee whose wages are subject to attachment, will receive their check on Friday at a time established by the Treasury Division.

#### **2115.121 Policies, Procedures, and Regulations**

(a) All new Policies, Procedures, or Regulations shall be determined by the City and shall be promulgated from the Department of Human Resources. Divisional Agreements shall be agreements that are not management rights, and must be mutually agreed to by the Union and the City.

(b) When existing Policies, Procedures, or Regulations are changed, clarified or new Policies, Procedures, or Regulations are established, they shall be posted prominently on all bulletin boards for a period of twenty (20) consecutive work days before becoming effective. If a modified or new policy is grieved to Step 3 of the grievance procedure within ten (10) work days of posting, it shall not become effective until the hearing is held and a response is issued. The hearing shall be held within ten (10) work days of the submission of the grievance to Step 3. If the hearing is delayed at no fault of the Union, then the policy shall not be in effect until a hearing is held and a response is issued. If the hearing is delayed at no fault of the City then the policy will become effective at the end of the twenty (20) day posting period. The parties may mutually agree to an extension at any time during the process.

The process in the above paragraph does not apply to emergency measures and State or Federal personnel mandates. These changes in procedure will be posted, if possible, for twenty (20) days, and subject to the grievance procedure set forth under Sections 2115.22 and 2115.23.

The City shall furnish each employee in the affected operation with a copy of all newly established sets of Policies, Procedures, or Regulations within ten (10) days after they become effective. The employee's immediate supervisor shall be responsible for distributing these Policies, Procedures, or Regulations to the employees and the employees shall be responsible for acknowledging receipt of the Policies, Procedures, or Regulations. Employees shall be provided with a copy of the Policies, Procedures, or Regulations at the time of hire.

(c) No Divisional Agreements will contain any provision relating to minimum manning requirements or mandatory filling of positions by overtime where no work exists for those positions. It is the inherent right of the City of Toledo to determine the numbers and levels of the work force within the operations of the various plants within the City.

(d) All Policies, Procedures, or Regulations shall be reasonable and shall be uniformly applied and uniformly enforced.

#### **2115.122 Subcontracting**

(a) Except for emergencies involving the public health, welfare and safety, and except as provided below, the City shall not subcontract any work or services being performed by the employees of the City.

(b) Where the City proposes subcontracting because of excessive cost, the following procedures will be used:

1. Prior to any subcontracting of work or services, the City shall notify the Union, in writing, of the proposed subcontracting using the subcontracting form indicating all the work to be subcontracted, the proposed start and completion dates, and the reasons for the excessive cost.

2. Subcontracting agreed to by the Union and not started within forty-five (45) calendar days of the projected start date shall be resubmitted to the Union using a new subcontracting form with a new start date and a new completion date if applicable.

3. Where formal bids are solicited, copies of bid specifications shall be furnished to the Union at the time the bids are solicited. No bid on the work from the Union is intended.

4. The Union and the City will be permitted fourteen (14) calendar days to agree to any work rule or other changes

which will make performance of the work with City employees competitive. If this results in the City being able to perform work with City employees at competitive cost, the work shall not be subcontracted. In determining competitive cost, all cost aspects shall be considered. The work to be subcontracted must be performed at the appropriate prevailing wage rates as required by applicable statutes.

5. If the City of Toledo and the Union cannot agree on subcontracting of the work, it shall be submitted to arbitration for resolution of the question as to whether the work can be done by the City employees without excessive cost. Either party may request expedited arbitration, however the moving party shall bear the expense of the Arbitrator. A decision by the Arbitrator shall be rendered within thirty (30) days of the request for expedited arbitration or the work may be subcontracted. No employee will be laid off as a direct result of such subcontracting.

(c) Where subcontracting of work or services being performed by City employees is proposed for the reasons other than emergencies or excessive cost as specified below, the subcontracting form shall be used to evidence notification to the Union and discussion of the issues raised and the procedures below shall be followed:

(i) In cases in which the work or services being performed by City employees is actually performed only in another division or division(s), then the division head of the division principally responsible for such work or services shall be contacted by the primary division to determine if the work proposed for subcontracting may be performed by the employees there. The division head shall base his/her decision on the availability of the appropriate employees and equipment in his/her division, the mission and priorities of the division, and the capability of the division's employees to fully perform the work in a timely and competent manner. The primary division head or the secondary division head shall advise the Union in writing of the secondary division head's determination. The Subcontracting Committee shall be required to review the division's decision provided that the Union submits a demand for review within three (3) work days of receipt of the division's decision.

(ii) Additionally, when coordination of a project involving three (3) or more divisions is necessary, the Subcontracting Committee may be called upon for assistance.

(iii) The Subcontracting Committee shall be comprised of six (6) members, three (3) from the City and three (3) from the Union. The Subcontracting Committee must meet and act upon such review request within seven (7) calendar days. Issues brought before the Committee shall be for advisory review only and shall not be subject to further review or appeal.

#### **2115.123 Protection of Conditions**

The City agrees that all conditions of employment in its individual operation relating to hours of work, overtime differentials and all working conditions shall be maintained at not less than the highest minimum standards in effect at the time of the passing of this Title of the Code and the conditions of employment shall be improved wherever specific provisions for improvement are made elsewhere in this Title of the Code. It is further understood and agreed that any wages, hours or working conditions agreed to that are in excess of those established herein shall not be reduced.

#### **2115.124 Reclassification**

(a) All employees shall work within their classification, except as otherwise provided by other sections of this Agreement.

(b) If an employee works above his/her classification more than fifty percent (50%) of the time, the employee in the position shall have their job audited by the Civil Service Commission upon the employee's request for a determination as to whether the position should be reclassified.

(c) Reevaluation reviews and reclassification studies shall be conducted within one hundred and twenty (120) work days of receipt of the request by the Department of Human Resources if a current job analysis of the classification(s) at issue exists. Otherwise, the review or study shall occur as soon as practicable after receipt of the request by the Department of Human Resources. Prior to submission, such requests shall be screened by the Division Head for a determination of whether reevaluation review or reclassification study is warranted. The Division head will make a determination within forty-five (45) calendar days from receipt of the employee's request. An audit shall only be deemed warranted when the employee is regularly working above his/her classification more than fifty percent (50%) of the time, not in an alternate capacity, and is properly assigned.

The Division Head's determination of whether an audit is warranted shall be subject to appeal to the third step of the Grievance Procedure. If the Division Head's determination is not upheld, then the request shall be submitted to the Department of Human Resources. Reclassification study results shall be subject to review by the Civil Service Commission. Reevaluation reviews shall be subject to review by the Compensation Evaluation Review Committee.

#### **2115.125 Federally Funded Jobs**

(a) The City agrees that when federal money is secured for federally funded programs, the Union shall be given notice that the position or positions are to be filled. City employees in the Bargaining Unit shall be given first opportunity to fill such positions within the federal guidelines established by the program before any new employees are hired, consistent with Section 2115.46, "Vacancies".

(b) If a regular employee in the Bargaining Unit desires the position they shall be given the right to fill the position in accordance with Civil Service Procedures and the resultant job opening will then be filled with the new employee.

(c) All federally funded positions within the jurisdiction of this Bargaining Unit shall be in the Bargaining Unit and the Union shall have the right to represent the federally funded employee and collect dues from them in accordance with the

provisions herein.

#### **2115.126 Successors and Assignees**

In the event that the City of Toledo transfers to another entity any operations covered by this agreement, the City shall inform said entity that it is required to recognize and bargain with the Union as the representative of the employees of the transferred operations.

#### **2115.127 Savings Clause**

If any section of this chapter of the Code or of any rider thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any provision or section should be restrained by such tribunal pending a final determination as to its validity, the remainder of this chapter and any rider thereto, or the application of such provision or section to persons or circumstances other than those as to which it has been held invalid or as to which compliance with or enforcement of has been restrained, shall not be affected thereby.

It is the intent of the parties that should any article or section of this chapter be held invalid or inoperable, that section or provision shall be renegotiated in an attempt to provide validity, operability, or acceptability to such section or provision.

#### **2115.128 Residency Requirement and Waiver**

(a) Every employee of the City of Toledo shall be a resident of the City of Toledo; provided, however, pursuant to Section 61 of the Charter of the City of Toledo who has established and maintained his/her residence outside the limits of the City prior to November 7, 1972, shall be allowed to continue such residence during his/her employment with the City, and provided further that employees who receive waivers may reside outside the City subject to any limitations or conditions placed upon their waiver.

(b) An employee of the City who wishes to seek a waiver of the residency requirement shall apply in writing to the Department of Human Resources on the application form provided by the City. The employee must set forth the facts meeting the Charter criteria that non-residence of such employee would be in the best interest of the City and that justice to such employee requires waiver of the residency requirement. Based upon the documentation presented, the City's Mayor will make a determination as to whether the Charter criteria have been met. The decision of the Mayor shall be considered final. The Mayor may at his/her option grant temporary, limited, or conditional waivers as he/she sees fit.

#### **2115.129 Termination**

This Chapter of the Code shall be effective July 1, 2005, and shall remain in full force through June 30, 2008, and thereafter until terminated, amended, or repealed pursuant to Chapter 4117 of the Ohio Revised Code.