

RECORD OF ORDINANCES

Ordinance No. 04-22-2024

Passed 4-10-, 2024

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A SEPARATION AND RELEASE AGREEMENT WITH A CITY EMPLOYEE (CHIEF) AND DECLARING AN EMERGENCY.

WHEREAS, in response to an ongoing investigation by the City of Circleville into an employee of the Circleville Police Department representatives of the City of Circleville and the employee met; and

WHEREAS, before the completion of the City's investigation and upon discussion between the City and employee, both the City and employee are desirous of ending the relationship with one another in accordance with the terms as outlined in the attached "Separation and Release Agreement";

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CIRCLEVILLE, STATE OF OHIO:

SECTION I: That the Mayor is hereby authorized to enter into a Separation and Release Agreement with Chief Gary Shawn Baer, under which the parties agree to voluntarily retire Chief Gary Shawn Baer's position with the City of Circleville Police Department effective April 11, 2024. The terms of his resignation shall be in accordance with the Separation and Release Agreement attached hereto as Exhibit "A," and incorporated herein by reference.

SECTION II: The terms of this Agreement sets forth all terms and provisions relative to wages, benefits, terms and conditions of employment which the parties intend to agree during the life of this Agreement.

SECTION III: That this ordinance is hereby declared to be an emergency measure, necessary for the immediate preservation of the health, safety and welfare of the citizens of the City of Circleville, such emergency arising out of the immediate need to enter into the Separation and Release Agreement, with this employee and to otherwise comply with its terms within the timeframes provided, so that this Ordinance shall take effect and be in force immediately from and after its passage and approval by the Mayor.

PASSED: 4-10-2024
DATE

Bruce D. Kelle
PRESIDENT OF COUNCIL

ATTEST: [Signature]
CLERK OF COUNCIL

APPROVED: 4-10-2024
DATE

[Signature]
MAYOR

APPROVED AS FORM:

[Signature]
KENDRA C. KINNEY - LAW DIRECTOR

- 4) Employee agrees to voluntarily retire from his employment with the City effective April 11, 2024 which shall be irrevocable upon the signing of this Agreement.
- 5) Employee shall submit a notice of voluntary retirement to be maintained in his personnel file.
- 6) The City, by executing this Agreement, accepts Employee's voluntary retirement effective the date outlined above in paragraph 4.
- 7) Employer agrees to pay Employee the lump sum of Seventy Thousand dollars (\$70,000) within seven (7) days of the execution of this Agreement. This payment shall be made directly to Employee. In consideration of the aforesaid payment, Employee acknowledges and agrees that he is solely responsible for any tax liabilities and consequences that may result from the receipt of the payments referenced herein. The parties acknowledge and agree that such payment shall not include any personal, city, state, or federal withholdings or other deductions.
- 8) Employee agrees that he will not seek re-employment with the City.
- 9) Employee shall receive payment for his accrued, but unused vacation leave and annual personal leave in the following amounts subject to the appropriate taxes, withholdings and/or any other deductions:

Vacation Leave:	68.82013Hours
Annual Personal Leave:	16 Hours
- All payments for accrued, but unused leaves shall be at Employee's hourly rate at the time of his voluntary retirement. Employee's hourly rate of pay at his time of voluntary retirement is \$46.91.
- 10) Employer acknowledges that Employee's retirement date through the Ohio Police and Fire Pension Fund is also April 11, 2024. Employee shall therefore receive payment for 50% of his accrued, but unused Sick Leave in accordance with Employer policy. Accordingly, Employee shall be paid for 436.21869 hours of Sick Leave at his current hourly rate listed above on Paragraph 9.
- 11) Employee shall receive no other payments from the City, except as outlined above in Paragraphs 7, 9, and 10.

- 12) The City shall remove any records of its investigation from Employee's personnel file.
- 13) The parties agree that neither will disparage one another. Further, the parties agree that they shall mutually assist one another, as necessary.
- 14) The parties understand and recognize that all, or portions, of the investigation conducted by the City, and this Separation and Release Agreement, may be subject to public disclosure consistent with Ohio's public records laws.
- 15) Employee, for himself, his heirs, executors, administrators, successors and assigns, agrees to release and forever discharge the City, its agents, servants, representatives, elected officials and employees from, and waives his right to bring against them now or in the future, any and all claims, damages, demands, liabilities, equities and causes of action both known and unknown, legal and equitable, accruing or accrued to the Employee prior to the execution of the Agreement and arising out of his employment with, and separation of employment with Employer. This waiver and release encompasses all claims that may be brought pursuant to Federal or State statute or common law, including, but not limited to, laws concerning civil rights, discrimination, violations of Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Family Medical Leave Act, violations of Ohio Rev. Code Chapter. 4112 and 4113, 42 USC § 1983, Workers Compensation Retaliation, violation of Ohio Public Policy, and to any claims that may be asserted against Employer, its agents, servants, representatives and employees in either their official or individual capacities.

Irrespective of the foregoing paragraph, Employee and Employer agree and acknowledge that the provisions of Chapter 2744 of the Ohio Revised Code are not waived or released by this Agreement. The parties acknowledge the duty of Employer to defend and indemnify Employee consistent with the terms of Chapter 2744 of the Ohio Revised Code for any past, present, or future complaint against Employee.

- 16) Employee understands that he has twenty-one (21) calendar days from the date he is provided with a copy of this Agreement to consider this Agreement. If the Employee elects to execute this Agreement prior to the expiration of the 21 calendar days, Employee warrants that he has done so knowingly and voluntarily.

17) In the event the parties choose to fully execute this Agreement, Employee has seven (7) calendar days following the execution of this Agreement to revoke this Agreement. If Employee revokes this Agreement, he shall not be entitled to the payments set forth herein and he shall be obligated to return any payments made pursuant to the Agreement to the Employer. If this Agreement is revoked by Employee, the City shall immediately re-open its investigation into the allegations of potential misconduct.

18) The parties agree and acknowledge that they have been given a reasonable period of time within which to consider this Agreement and to fully review and discuss the terms of this Agreement with their respective attorneys. The parties acknowledge that they understand and accept the terms of this Agreement and enter into it voluntarily.

19) In the event that Employee has any personal belongings in the City's Police Department, he should schedule a time the Law Director's Office to retrieve his items.

20) The City agrees that the Employee is separated in good standing and that at the time of separation the Employee is not under investigation or facing disciplinary charges for the purpose of SF401. The City also agrees to provide a copy of this form to the Employee when it is sent to the State.

21) The parties agree and acknowledge that this Agreement contains and comprises the entire agreement and understanding between the parties, that no other representation, promise, covenant or agreement of any kind whatsoever has been made to cause any party to execute this agreement, and that all agreements and understanding between the parties are embodied and expressed herein. The parties also agree that the terms of this Agreement shall not be amended or changed except in writing and signed by both parties or a duly authorized agent.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be duly executed.

Employee

Date

Employer

Date