



THE RULES AND REGULATIONS
of the
WILMINGTON CIVIL SERVICE COMMISSION

Adopted on 10/27/2022

PREAMBLE

Preamble

The following rules and regulations are adopted in accordance with the authority conferred upon the Civil Service Commission of the City of Wilmington, Ohio, under the authority of Articles XV and XVIII and other provisions of the Constitution of the State of Ohio, the Ordinances of the City of Wilmington, and Chapter 124 and other provisions of the Ohio Revised Code (ORC).

Inquiries regarding Civil Service matters or these Rules should be addressed to The Civil Service Commission, City of Wilmington, 69 N. South Street, Wilmington, Ohio 45177.

WILMINGTON CIVIL SERVICE COMMISSION (2022)

Sarah Hawley

Lori Williams

Chip Murdock

The Rules and Regulations of the Wilmington Civil Service Commission

TABLE OF CONTENTS

| | <u>PAGE</u> |
|--|--|
| Preamble | iii |
| <u>CHAPTER ONE - APPLICABILITY OF RULES</u> | |
| 1.01 | Scope of the Rules 1 |
| 1.02 | Construction 1 |
| 1.03 | Adoption, Amendment, Rescission 1 |
| 1.04 | Publication 1 |
| 1.05 | New Rules 2 |
| 1.06 | Saving Clause 2 |
| <u>CHAPTER TWO - DEFINITIONS</u> | |
| 2.01 | Definitions 3 |
| <u>CHAPTER THREE - GENERAL PROVISIONS</u> | |
| 3.01 | Appointments to the Civil Service Commission 6 |
| 3.02 | General Duties of the Civil Service Commission 6 |
| 3.03 | Officers, Agents, Expenses, and Salaries of the Commission 8 |
| 3.04 | Removal 10 |
| 3.05 | Meetings of the Commission 10 |
| 3.06 | Procedure for the Adoption, Amendment, or Rescission of Rules 11 |
| 3.07 | Service Lists 12 |
| <u>CHAPTER FOUR - CLASSIFICATION</u> | |
| 4.01 | Job Classification Plan 13 |
| 4.02 | Job Reclassification and Job Audits 13 |
| <u>CHAPTER FIVE - CLASSIFIED AND UNCLASSIFIED SERVICE</u> | |
| 5.01 | Division of the Civil Service into Classified and Unclassified Service 15 |
| 5.02 | Unclassified Service 15 |
| 5.03 | Classified Service 16 |

CHAPTER SIX - APPLICATIONS

| | | |
|------|---|----|
| 6.01 | Generally | 18 |
| 6.02 | Forms | 18 |
| 6.03 | Method of Filing | 18 |
| 6.04 | Residency Requirements | 19 |
| 6.05 | Age Restrictions – Police and Fire | 19 |
| 6.06 | Licenses, Certifications, Education and Training | 19 |
| 6.07 | Character and Fitness | 19 |
| 6.08 | Acceptance or Rejection of Application and Notice to Applicants | 20 |
| 6.09 | False Statements | 21 |
| 6.10 | Fitness for Service | 21 |

CHAPTER SEVEN - EXAMINATIONS

| | | |
|------|--|----|
| 7.01 | General | 22 |
| 7.02 | Types of Examinations | 22 |
| 7.03 | Separate Examinations | 22 |
| 7.04 | Competitive Examinations and Required Number of Candidates | 23 |
| 7.05 | Examinations for Appointment without Competitive Examination | 23 |
| 7.06 | Examinations for Promotion without Competitive Examination | 23 |
| 7.07 | Examination Notices and Sites | 24 |
| 7.08 | Original Appointments: Police and Fire | 25 |
| 7.09 | <i>Open</i> | |
| 7.10 | Medical, Physical, Psychological, or Drug Testing | 25 |
| 7.11 | Admission of Applicants to Examination | 27 |
| 7.12 | Identity of Applicants Concealed | 27 |
| 7.13 | Extension of Examination Time | 27 |
| 7.14 | Visitors at Examinations | 27 |
| 7.15 | Postponement or Cancellation of Examination | 28 |
| 7.16 | Waiver | 28 |
| 7.17 | Promotional Examinations | 28 |
| 7.18 | Limitation on Original Appointments: Police and Fire | 28 |
| 7.19 | Promotional Examinations: Fire | 28 |

CHAPTER EIGHT – GRADING EXAMINATIONS, ADDITIONAL CREDIT, AND INSPECTION

| | | |
|------|---|----|
| 8.01 | Grading Examinations and Addition of Extra Credit Generally | 30 |
| 8.02 | Minimum Passing Score | 30 |
| 8.03 | Original Appointment – Uniformed Service Credit and Veterans Preference | 30 |
| 8.04 | Original Appointment – Addition of Extra Credit | 30 |
| 8.05 | Promotional Seniority and Efficiency Credit | 32 |
| 8.06 | Inspection and Grading of Examination Documents | 33 |

CHAPTER NINE - ELIGIBILITY LISTS

| | | |
|------|--|----|
| 9.01 | Preparation of Eligibility Lists | 34 |
| 9.02 | Term of Eligibility List | 34 |
| 9.03 | Resulting Ties on Eligibility Lists | 34 |
| 9.04 | Military Service – Effect on Eligibility Lists | 34 |
| 9.05 | Disqualification from Eligibility List | 35 |
| 9.06 | Removal from an Eligibility List | 36 |
| 9.07 | Duty of Eligibles | 36 |
| 9.08 | Revocation of Eligibility List | 36 |
| 9.09 | Separate Eligibility Lists for Police and Fire | 36 |

CHAPTER TEN - APPOINTMENTS AND PROMOTIONS

| | | |
|-------|--|----|
| 10.01 | Appointments | 37 |
| 10.02 | Appointment Procedure and Number of Names Certified | 37 |
| 10.03 | Veterans Preference on Original Appointment | 37 |
| 10.04 | Probationary Periods | 38 |
| 10.05 | Removal or Reduction during Probation | 38 |
| 10.06 | Temporary or Exceptional Appointments | 39 |
| 10.07 | Eligibility for Permanent Classified Status | 40 |
| 10.08 | Promotional Appointments – Police and Fire | 41 |
| 10.09 | Promotional Restrictions and Qualifications – Police and Fire | 40 |
| 10.10 | Promotional Appointments – Non-Safety Classifications | 42 |
| 10.11 | Promotional Appointment of Part Time Employees to Full Time Status | 42 |

CHAPTER ELEVEN - TENURE, REDUCTION, SUSPENSION, DEMOTION, AND REMOVAL

| | | |
|-------|--|----|
| 11.01 | Tenure | 43 |
| 11.02 | Procedure in General | 44 |
| 11.03 | Procedure – Police and Fire | 45 |
| 11.04 | Bargaining Unit Employees | 46 |
| 11.05 | Procedure for Removal, Suspension, Fine, or Reduction in Pay or Position | 46 |

CHAPTER TWELVE - HEARING PROCEDURE

| | | |
|-------|---|----|
| 12.01 | Scheduling of Hearing and Notification | 47 |
| 12.02 | Amendments to Orders | 47 |
| 12.03 | Hearing Procedure | 47 |
| 12.04 | Rules of Evidence and Representation by Counsel | 48 |
| 12.05 | Burden of Proof | 49 |
| 12.06 | Hearsay | 49 |
| 12.07 | Discovery | 49 |

| | | |
|-------|---|----|
| 12.08 | Subpoenas | 49 |
| 12.09 | Witnesses | 49 |
| 12.10 | Motions | 49 |
| 12.11 | Record of Hearings | 50 |
| 12.12 | Findings of Fact and Conclusions of Law | 50 |
| 12.13 | Resignation before Final Action | 50 |
| 12.14 | Last Chance Agreement | 50 |
| 12.14 | Trial Board/Hearing Officer | 51 |
| 12.16 | Distribution of the Findings of Fact and Conclusions of Law | 52 |
| 12.17 | Filing Appeals from Decisions of the Commission | 53 |

CHAPTER THIRTEEN - LAYOFFS AND TRANSFERS

| | | |
|-------|---|----|
| 13.01 | Layoffs or Reductions in General | 53 |
| 13.02 | Retention Points | 53 |
| 13.03 | Layoffs or Reductions – Police and Fire | 53 |
| 13.04 | Temporary Transfers | 53 |
| 13.05 | Permanent Transfers | 54 |

CHAPTER FOURTEEN - REINSTATEMENTS AND LEAVES OF ABSENCE

| | | |
|-------|---|----|
| 14.01 | Leaves of Absence | 56 |
| 14.02 | Reinstatements in General | 56 |
| 14.03 | Reinstatements/Disability Retirements – Police and Fire | 57 |

CHAPTER FIFTEEN - PROHIBITIONS

| | | |
|-------|--|----|
| 15.01 | Political Activity Prohibited | 58 |
| 15.02 | Fraud in Examinations Prohibited | 58 |
| 15.03 | Payment for Appointment or Promotion Prohibited | 59 |
| 15.04 | Abuse of Official Power for Political Reasons Prohibited | 59 |
| 15.05 | Abuse of Political Influence | 59 |
| 15.06 | False Statements | 60 |
| 15.07 | Violations | 60 |
| 15.08 | Prosecution | 60 |

CHAPTER ONE
APPLICABILITY OF RULES

1.01 Scope of the Rules

- A. These Rules shall be applicable to all civil service matters, except to the extent that the same are superseded or preempted by the specific terms, provisions, and content of a collective bargaining agreement entered into by and between the City of Wilmington and a public Employee collective bargaining representative, pursuant to Chapter 4117 of the Ohio Revised Code, to the extent that said preemption is permitted by law.
- B. No person shall be appointed, removed, transferred, laid off, suspended, reinstated, promoted, or reduced as an Employee in the civil service of the City of Wilmington in any manner or by any means other than those prescribed in these Rules.

1.02 Construction

These Rules should be construed so as to carry out their purposes as determined from both the literal reading of the Rules and their context. The Rules should be construed and applied in a manner that is consistent with the laws of the State of Ohio, except to the extent that the letter or context of City ordinances indicates that the City intended to supersede, preempt, or otherwise override state law through a valid exercise of Home Rule. The Rules should not be construed so as to limit the City's power to exercise Home Rule. Nor should the Rules be construed in a way that limits the Civil Service Commission's power to interpret and apply the Rules within the scope of its lawful authority.

The term "ordinance" in these Rules is meant to include formal ordinances, resolutions, or any other actions of the Wilmington City Council that are sufficient to carry out exercises of Home Rule or other powers of Wilmington City Council. References to "rules" and "regulations" are interchangeable, unless indicated otherwise.

1.03 Adoption, Amendment, Rescission

Unless otherwise indicated, these Rules, and any amendment, revision, rescission of the same shall be in full force and effect from and after their publication and adoption by the Civil Service Commission of the City of Wilmington; provided that any rules that supersede state law and require an action of Wilmington City Council will become effective in accordance with such action of Wilmington City Council.

1.04 Publication

No action of the Commission adopting a rule or regulation, or amendment, revision, or rescission of the same shall be effective until notice of the same with summary of its content has been prominently displayed in the places of employment of the City of Wilmington that

are frequented on a regular basis by classified Employees of said entities in the discharge of their official duties, and the content of the same has been made available for public review.

1.05 New Rules

The present Rules of the Civil Service Commission of the City of Wilmington shall continue in full force and effect until any amendments set forth herein have been properly adopted. Upon the adoption of any amendments, the existing Rules shall be rescinded, and the newly developed Rules shall supersede and replace the same as the revised Rules and Regulations of the Civil Service Commission of the City of Wilmington.

1.06 Saving Clause

If any Section or part of a Section of these Rules is held by a court of competent jurisdiction to be unconstitutional, or to be invalid for any other reason, said action shall not invalidate or impair the validity, force, or effect of any other Section or part of a Section of these Rules, unless it clearly appears that such other Section or part of a Section of these Rules is wholly or necessarily dependent for its operation under the Section or part of a Section that has been held invalid.

CHAPTER TWO DEFINITIONS

2.01 Definitions

The terms herein specified, and as used in the Rules and Regulations of the Civil Service Commission, or in the administration of civil service laws and rules, shall be defined as follows:

- A. **"Application"** – any form or group of forms issued or required by the Commission, that an individual seeking employment or Promotion must satisfactorily complete in order to successfully complete the process of informing the Appointing Authority of their availability and desire to be considered for employment, Promotion, or for any other purpose as determined by the Commission.
 - B. **"Appointing Authority"** – those political entities authorized by the appropriate provisions of the Ohio Revised Code to hire or appoint civil service Employees.
 - C. **"Certification"** means the process of providing to an Appointing Authority the names on an eligibility list or layoff list.
 - D. **"Certified Eligibility list"** – a list of candidates authorized to be considered for employment from an eligibility list, a layoff list, or from a list of temporary Employees who qualify for certified status.
 - E. **"City"** – the City of Wilmington, Ohio.
 - F. **"Civil Service"** – all offices and Positions of trust or employment in the service of the City of Wilmington.
 - G. **"Classified" service** – those persons in the employ of the City of Wilmington who are now in classified civil service status due to their job Positions pertinent to the local situation. All other Employees and Positions shall be "unclassified." Classified status may be determined as provided for in ORC 124.11(A) or (C) or other Revised Code provisions, or by local ordinance. Chapter 5 and Sections 2.01(X), 7.05, 10.08, and other provisions in these Rules explain how an Employee might gain Classified status. In any situation in which the status of an Employee, as being either Classified or unclassified, is in issue, the burden shall be upon the Appointing Authority to establish such status by a preponderance of evidence.
 - H. **"Commission"** – the Municipal Civil Service Commission of the City of Wilmington, Ohio.
 - I. **"Eligible"** – a candidate for appointment or Promotion to a classification who has passed all required examinations and met all other requirements for appointment to the classification.
-

- J. **"Eligibility list"** – a list of names and corresponding final scores of individuals who, through testing and meeting the other qualifications of a Position, have been found qualified, and each of whom has been afforded a specific competitive rank based upon their total score achieved.
- K. **"Employee"** – any person holding a Position subject to appointment, removal, Promotion, or reduction by an Appointing Authority.
- L. **"Examination"** or **"Exam"** – an evaluation of one (1) or more applicants' suitability for employment in a particular Position and/or classification in accordance with these Rules. An examination may consist of an evaluation of training and experience, an assessment center, or a written, oral, or other test, etc. (see Rule 7.02, Types of Examinations). The type of examination may depend on the Position to be filled.
- N. **"Exempt Appointment"** – an appointment to a Position which is not subject to an examination or civil service tenure. The term "exempt" in this definition does not refer to a Position that is exempt from the provisions of the Fair Labor Standards Act ("FLSA"); whereas the term "overtime-exempt" or "overtime exempt" in these Rules refers to a person that is exempt from the provisions of the FLSA but not necessarily from examination or civil service tenure."
- O. **"Position"** – when used by itself, refers to any specified office, employment, or job, calling for the performance of certain duties, either full time or part time, and for the exercise of certain responsibilities by one (1) individual.
- P. **"Position Classification"** – the arrangement of similar Positions into classifications. Positions shall be classified in accordance with the duties and responsibilities of the Position.
- Q. **"Promotion"** – the act of placing an Employee in a Position, the classification for which carries a higher salary range or rate than the classification of the Position previously held by the Employee.
- R. **"Rules"** – The Rules and Regulations of the Civil Service Commission of the City of Wilmington.
- S. **"Secretary"** – the Secretary of the Civil Service Commission of the City of Wilmington. The Secretary shall also act as the Clerk of the Commission (Rule 3.03 [B]).
- T. **"Section"** – an individual rule, as in "Section 5.03" and in some cases a reference might be to a subsection as in "Section 5.03(A)."
- U. **"Specification"** – a general description of a job classification specifying or giving examples of the kinds of tasks expected to be performed by Employees holding
-

Positions allocated to that classification. Specifications may include a classification title and a number, a statement of job functions, a grouping of task statements by job duties (ranked by importance), approximate percentages of total job time required for the performance of each duty and may include worker characteristics or behaviors required for successful completion of all tasks within each duty, and minimum qualifications for competition for employment in the classification.

- V. **“They”, “Them”, or “Their”** may be used as a plural pronoun and may be used in place of pronouns associated with gender.

 - W. **"Unclassified Service"** – all offices and Positions that are exempt from civil service examination and which provide no civil service tenure under the law. Unclassified status may be determined as provided for in ORC 124.11(A) or (C) or other Revised Code provisions, or by local ordinance. The rights of the affected Employee are determined accordingly by the Commission.

 - X. **"Unsatisfactory Performance"** – the failure of an Employee to complete one or more job of their job duties:
 - 1. in a way; or
 - 2. to a standard; or
 - 3. within a timeframe;that:
 - 4. is not arbitrary or capricious;and that:
 - 5. the Employee’s supervisor or someone else in authority has communicated to the Employee; or
 - 6. any reasonable person in the Employee’s Position should understand.

 - Y. **"Vacancy"** – an existing funded and unfilled Position that an Appointing Authority desires to fill. The existence of vacant Positions on an Appointing Authority’s table of organization or roster of Positions shall not apply the availability of a vacancy.
-

CHAPTER THREE GENERAL PROVISIONS

3.01 Appointments to the Civil Service Commission

The Mayor shall have appointed three (3) persons, one (1) for a term of two (2) years, one (1) for a term of four (4) years, and one (1) for a term of six (6) years, who shall constitute the Commission. As the terms of the current Commission members expire, the Mayor shall appoint one (1) person, as successor of the member whose term expires, to serve six (6) years. A vacancy shall be filled by the Mayor for the unexpired term. At the time of appointment, not more than two (2) members of the Commission shall be adherents of the same political party.

3.02 General Duties of the Civil Service Commission

The Civil Service Commission shall:

- A. Prescribe, amend, and enforce Rules not inconsistent with Chapter 124 of the Ohio Revised Code (except to the extent inconsistencies have been adopted by Home Rule) for the classification of Positions in the Civil Service of the City for the administration of procedures for appointments, Promotions, transfers, layoffs, suspensions, reductions, removals, and reinstatements to those Positions; and for standardizing Positions and maintaining efficiency;
 - B. Classify Positions in the service of the City;
 - C. Prepare, conduct, and grade or assign a person or vendor to prepare, conduct, and grade all examinations for Positions in the Classified service;
 - D. Prepare and maintain Eligibility lists containing the names, scores, and rankings of all persons qualified for Positions in the Classified service;
 - E. Maintain a journal, which shall be open to the public for inspection, in which the Commission shall keep a record of its proceedings and of the vote of each of its members upon every action taken by it, along with a record of the Commission's final decisions pertaining to classification or reclassification of Positions in the Classified service of the City and the assignment or reassignment of Employees to specific Position classifications;
 - F. Keep and maintain the following records for a time established by the Wilmington Records Commission:
 - 1. a compilation and listing of all of the current and existing authorized Positions within the Civil Service of the City;
-

2. a current description as to the duties and responsibilities of all the current and existing authorized Positions within the Civil Service of the City; and retain on file documents and records related to job and employment actions as to each such Position;
3. a record of all Applications received by, and all examinations conducted by the Commission;
4. service lists (rosters) of all persons in the Civil Service paid directly by warrant of the City containing the information specified in Section 3.07 below.

All provisions of this paragraph are subject to records retention schedules as determined by the Wilmington Records Commission or the appropriate provisions of any collective bargaining agreement.

- G. Hear appeals provided for by law, including: appeals of the Appointing Authority from decisions of the Commission relative to classification or reclassification of any Position in the Classified service under the jurisdiction of the Appointing Authority; appeals of Employees in the Classified service from final decisions of the Employee's Appointing Authority relative to reduction in pay or Position,¹ job abolishment, layoff, suspension, fine, or termination, or final decisions of the Appointing Authority or of the Commission relative to assignment or reassignment to a new or different Position classification or a refusal to reclassify the Employee's Position. However, adverse actions based on certain felony convictions may not be appealed, per ORC 124.34 (A). Furthermore, a party may not file a second appeal from a decision of the Commission that results from an appeal, although, the Commission may allow motions for reconsideration;
- H. Subpoena and require the attendance and testimony of witnesses and/or the production of books, records, and other documentary evidence pertinent to any matter which the Commission has the authority to investigate, into which it has the authority to inquire, or which it has the authority to hear;
- I. Furnish to the Mayor of the City any special reports that the Mayor requests. Prepare and submit to the Mayor an annual report showing the Commission's actions, rulings, exceptions thereto in force, and any recommendations for the more effectual operation of the Commission. The Commission shall also make reports from time to time as the State Personnel Board of Review (SPBR) requests of the manner in which the law and the Rules of the Commission have been and are being administered in the City. The Commission shall file its Rules and an annual report with the SPBR (the annual report may be the same as that submitted to the Mayor);

¹ Prohibitions against reductions in pay or Position do not apply to modifications or reductions in pay or work week authorized by ORC 124.393 or 124.394.

- J. Prepare and submit to the Mayor an annual budget and request for appropriations for the next fiscal year of the City, which the Commission deems appropriate and sufficient to defray the costs and expenses of its operations;
- K. Appoint such additional referees (including hearing officers), inspectors, examiners, clerks, assistants, and/or other Employees as are necessary to assist and serve the Commission in its exercise of its duties, powers, functions, and responsibilities and/or contract for such services (e.g. consulting services to assist with classification of Positions per ORC 124.14, etc.), provided that Wilmington City Council has properly approved and appropriated the funds for the expense associated with the foregoing. Furthermore, the Commission may delegate any functions it performs as the City equivalent of the Ohio Director of Administrative Services to any other City administrative office or make use of such personnel or services as the City shall provide to assist the Commission. The Commission's delegation of functions is subject to the Commission's final review and control, except that any trial board appointed by the Commission shall act entirely in the Commission's stead in hearing and deciding the matter for which it was appointed;
- L. Exercise all other powers and perform all other duties with respect to the Civil Service of the City as prescribed in Chapter 124 of the Revised Code and conferred upon the Director of Administrative Services and the State Personnel Board of Review of the State of Ohio with respect to the civil service of the State of Ohio, except any powers or duties proscribed or superseded by Home Rule.

3.03 Officers, Agents, Expenses, and Salaries of the Commission

- A. Election and duties of the Chairperson and Vice-Chairperson

The Commission shall elect one (1) member as Chairperson of the Commission, and one (1) member as Vice-Chairperson, who shall each serve until their successor is elected. Such election shall occur in the first Commission meeting of each calendar year (organizational meeting) or when a new member is appointed.

The responsibilities and duties of the Chairperson shall include, but are not limited to:

1. calling such meetings of the Commission as are necessary to transact the business and affairs of the Commission;
 2. signing the minutes of all action taken by and approved by the Commission;
 3. presiding at all meetings of the Commission (Vice Chairperson may lead meetings as needed);
 4. signing all warrants or orders for the payment of money from the accounts and funds of the Commission;
-

5. ensuring that the annual report to the State Personnel Board of Review required by ORC 124.40 and the annual report to the Mayor are assembled and transmitted in a timely manner.

In the absence of the Chairperson, the Vice-Chairperson shall act as the Chairperson of the Commission.

B. Appointment and duties of the Secretary

The Commission shall appoint and employ a suitable person to act as Secretary, who shall also act as its Clerk. In the absence of the Secretary, the Commission may appoint a member of the Commission or another person to act as the temporary Secretary in the place of the Secretary. A Commission member who serves as Secretary shall not receive any additional compensation for said service. The Secretary shall perform the following duties:

1. attend all meetings of the Commission and keep the minutes thereof;
 2. keep in the form of minutes a record of the official actions of the Commission;
 3. be available in the administration building of the City during regular business hours for the purpose of receiving calls, accepting service of filings, and providing access to Commission records;
 4. process all Applications;
 5. accurately and properly maintain all records of the Commission;
 6. keep all files in proper order;
 7. prepare and deliver, or cause to be delivered, notices, documents, and other communications ordered by the Commission;
 8. properly and timely provide Certified lists to the appropriate Appointing Authority;
 9. handle such correspondence as the Commission shall determine, including the preparation of the budget and annual report;
 10. on authorization from the Chairperson, sign all warrants or orders for the payment of money on behalf of the Commission;
 12. make available to the public those documents deemed to be public records under the terms of ORC 149.43;
-

13. perform other duties as assigned by the Commission or the Chairperson.

C. Appointment of special hearing officers, examiners, etc.

The Commission may appoint hearing officers, special examiners, and additional clerks, assistants, and other Employees, contract for services necessary to assist the Commission in carrying out its functions, and/or make use of services of the City, as provided in Section 3.02 above.

D. Expenses and salaries of the Commission

The expenses and salaries, if any, of the Commission shall be determined by the Wilmington City Council.

3.04 Removal

Upon the receipt of a report from the State Personnel Board Review (SPBR), charging a member of the Commission with violating or failing to perform the duties imposed by law, or willfully or through culpable negligence violating the law by failure to perform their duties as a member of said Commission, along with the evidence on which the report is based, the Mayor of the City shall forthwith remove the member. The Mayor may at any time remove any member of the Commission for inefficiency, neglect of duty, or malfeasance in office, having first given the member a copy of the charges against them, and an opportunity to be publicly heard in person or by counsel in their defense.

3.05 Meetings of the Commission

A. The first meeting of each calendar year shall be the organizational meeting of the Commission. The Commission shall hold such other meetings as may be called by the Chairperson of the Commission, or by two (2) members thereof.

B. All meetings of the Commission are open to the public, except as set forth in ORC 121.22, other applicable provisions of law, and this Section.

C. General minutes shall be taken at all Commission meetings and shall be open to public inspection.

D. The Chairperson of the Commission may, on their own initiative, and shall, upon the request of the other two (2) members of the Commission, call a special meeting of the Commission to be held not later than ten (10) calendar days following the date of notice of such meeting. Two (2) members of the Commission shall constitute a quorum at any meeting of the Commission. The affirmative vote of at least two (2) members of the Commission shall be required to adopt any motion or resolution.

E. Twenty-four (24) hours advance notice of any meeting of the Commission must be given on the Municipal Calendar of the City of Wilmington website.

- F. In the event of an emergency, the Chairperson, the members calling the meeting, or a designee must immediately notify the local news media concerning the time, place, and purpose of the meeting.
- G. An executive session may be held only after a majority of the members, by roll call vote, have approved such action. Such executive session may be convened to consider the appointment, employment, dismissal, discipline, Promotion, demotion, reinstatement, or compensation of any Employee subject to these Rules unless such Employee requests a public hearing. The motion and vote to hold the executive session shall state which one or more of these purposes are the purposes for which the executive session is being held but need not name the person who is to be considered during the session. Executive session may also be held for other reasons enumerated in ORC 121.22 and the other laws and regulations incorporated therein, or for other reasons permitted by law. Minutes of any executive session shall be appropriate to the nature of such executive session.
- H. The order of business for meetings of the Commission shall be:
 - 1. roll call;
 - 2. disposition of unapproved minutes;
 - 3. unfinished business;
 - 4. new business;
 - 5. other discussion or business;
 - 6. adjournment.

3.06 Procedure for the Adoption, Amendment, or Rescission of Rules

- A. Public notice as to the adoption, amendment, or rescission of the Rules or any individual rule of the Commission must be given to the local news media and the Mayor at least ten (10) calendar days prior to the date set for hearing and consideration of such Rules or rule change.
 - B. The public notice must contain a statement of the Commission's intention to alter or adopt the Rules or a rule, and a statement as to the subject matter of the rule(s) to be affected. In addition, the notice must contain the date, time, and place set for the consideration of the rule change.
 - C. A copy of the full text of any proposed rule, or any change of the Rules or an individual rule, shall be submitted to the Mayor at least ten (10) calendar days prior to the date set for consideration.
-

- D. Sections A through C above do not apply to an emergency rule, amendment, or rescission of any individual rule or to any rule, amendment, or rescission required by state or federal law or regulation.
- E. Adoption of the Rules or changes to individual rules shall be adopted at an open meeting by a majority vote of the Commission and entered into the minutes. Interested parties may provide input in writing preferably in advance or offer written or oral input at the meeting(s) called to consider the Rules or rule changes. Copies of the Rules or rule changes, together with the minutes of the Commission's adoption of the change, will be kept by the designee of the Commission and made available to any person upon request. Due notice of the contents of such Rules and of all changes shall be given to Appointing Authorities affected by such Rules, and such Rules shall also be printed for public distribution and/or be made available electronically.

3.07 Service Lists

Separate rosters, known as "service lists" of the City shall contain the name of every person employed by the same; the date of their appointment; the title of their Position; the date of termination of employment or separation therefrom, if any; the designation of said Employee and the Position in which they serve as being in the Classified or the Unclassified service of the City. In the case of an Employee and/or Position which is designated as being in the Unclassified service, an indication of the reason and justification for such designation for purposes of the lists shall be created and approved by the Mayor. In the case of rosters of Classified Positions, such rosters shall also show the dates of Promotions, if any; the dates of suspension, if any; and in the case of termination of employment or separation therefrom, if any, the cause for same. Service lists shall be filed with the Commission and kept by the Secretary. The lists shall be updated and revised periodically by written notice from the respective Appointing Authorities.

CHAPTER FOUR CLASSIFICATION

The Commission, pursuant to Rule 3.02 (K) above, has delegated all duties and responsibilities regarding Job Classification, Reclassification and Auditing of Job Classifications to the Appointing Authority and the City Administration. Appeals under this chapter will still be heard by the Commission.

4.01 Job Classification Plan

- A. The Commission shall establish and may modify or repeal a job classification plan for all Classified Positions, Employees, and employment situations in the employ of the City.
- B. Positions in the Civil Service of the City shall be classified in accordance with the classification plan, which shall provide that any and all Positions whose duties, responsibilities, authority and necessary qualifications are sufficiently similar, shall be allocated to the same class with a title which shall be descriptive of the duties performed, which will allow for the assignment of pay ranges with equity.
- C. The Commission shall prepare a class Specification for each job classification setting forth a class title, salary range, typical duties and responsibilities, and the necessary qualifications, as specified in Rule 4.01(A). The Commission shall also assign related classifications, which form a career progression, to a classification series. The Commission shall assign each classification in the classification plan a five-digit number, the first four digits of which shall denote the classification series to which the classification is assigned.
- D. Where particular licenses or attributes, such as insurability, are essential characteristics or functions of a Position, the class series Specification may be amended to so reflect. Such amendments may be requested by the Appointing Authority or may be made independently by the Commission and must be reflected in the minutes of the Commission.
- E. An Employee may be assigned duties that are not specifically set forth in their job description or classification Specification. However, an Employee should normally be assigned duties such that, if that Employee's job were audited, the classification that most accurately describes the Employee's duties should be the current classification.

4.02 Job Reclassification and Job Audits

When the Commission proposes to reclassify any Employee, and such reclassification would adversely affect the Employee, the Commission shall give to the Employee and to the Appointing Authority a written notice setting forth the proposed new classification, pay

range, and salary. The Commission and the Appointing Authority shall issue the additional notices required in ORC 124.14(D).

Upon the request of any Classified Employee who is not serving a probationary period, the Commission shall perform a job audit to review the classification of the Employee's Position to determine whether the Position is properly classified. The Commission shall give to the Employee affected and to the Appointing Authority a written notice of the Commission's determination whether to reclassify the Position or to reassign the Employee to another classification. The Commission may also determine the most appropriate classification for a Position on its own volition, or at the request of the Appointing Authority.

Appeals of reclassifications shall be filed, in writing, with the Commission within thirty (30) calendar days following the date the Employee receives notice of the results of the audit. A copy of the audit decision letter shall be attached to the appeal.

**CHAPTER FIVE
CLASSIFIED AND UNCLASSIFIED SERVICE**

5.01 Division of the Civil Service into Classified and Unclassified Service

The Civil Service of the City shall be divided into the Classified service and the Unclassified service:

5.02 Unclassified Service

- A. The Unclassified service shall comprise the following Positions, which shall not be included in the Classified service, and which shall be Exempt from these Rules:
1. All officers elected by popular vote, or persons appointed to fill vacancies in such offices;
 2. The members of all boards and commissions, and the heads of departments appointed by the Mayor of the City and City Administrator This rule does not exempt the Chiefs of the Police and Fire Departments of the City;
 3. Employees of the Wilmington City Council who are engaged in legislative duties;
 4. Four (4) clerical and administrative support Employees each for the Wilmington City Council;
 7. Four (4) clerical and administrative support Employees each for the principal appointive executive officers, boards, or commissions of the City authorized to appoint the same, except the Civil Service Commission of the City;
 8. Assistants to the Law Director;
 9. Such students in normal schools, colleges, and universities who are employed by the City in student or intern classifications;
 10. Such unskilled labor Positions as the Commission may find impracticable to include in the competitive Classified service; provided such Exemptions shall be by order of the Commission, duly entered on the record of the Commission with the reasons for each such Exemption;
 11. Deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals;
 12. Part-time Employees and Employees who receive intermittent or temporary appointments under ORC 124.30;
-

13. Employees appointed to administrative staff Positions for which the Appointing Authority is given specific statutory authority to set compensation;
 14. Persons who lose their Classified status due to a conviction of a felony as provided in ORC 124.34; and
 15. Other Positions designated as Unclassified by ordinance or law.
- B. Omission of any Unclassified Position or person from the foregoing specific list of *Unclassifieds* shall not be construed as an intention to render that person or Position classified.
- C. Within sixty (60) calendar days after taking office, each elected officer and each principal appointive officer, board, commission, or body having the power of appointment to, or removal from, Positions in any office, department, commission, board or institution, shall designate each Position for which Exemption from the competitive Classified service is claimed under the provisions of ORC 124.11(A)(8) and Rules 5.02(A)(6) and (7). If, at the expiration of such sixty (60) calendar days after taking office, ORC 124.11(A)(8) Exemptions have not been designated by the appointing officer, board, or commission as herein provided, the ORC 124.11 (A)(8) Exemptions already designated and in effect will be continued in effect.
- At any time the appointing officer, board, or commission determines to change a designation of a Position as Unclassified under ORC 124.11(A)(8) or has not used all of the allowable ORC 124.11(A)(8) Exemptions, the officer, board, or commission may designate one or more additional Positions as Exempt under ORC 124.11(A)(8), as long as the total number does not exceed the maximum number allowed under ORC 124.11(A)(8). The selection of Exempted Positions may be reconsidered by an Appointing Authority if a reorganization of their agency occurs during their term of office as a result of legislative action.
- D. The mere failure of an Employee's Appointing Authority to file a statement with the Commission indicating that the Employee is in the Unclassified Civil Service, or the mere late filing of such a statement, does not prevent the Employee from being in the Unclassified service.

5.03 Classified Service

- A. **CLASSIFIED SERVICE:** The Classified service shall comprise all persons in the employ of the City not specifically included in the Unclassified service. The Classified service shall consist of two (2) classes, which shall be designated as the competitive class, and the unskilled labor class:
-

- B. **COMPETITIVE CLASS:** The competitive class shall include all Positions and employments in the service of the City for which it is practicable to determine the merit and fitness of applicants by competitive Examinations.
- C. **UNSKILLED LABOR CLASS:** The unskilled labor class shall include ordinary unskilled laborers. Vacancies in the labor class shall be filled by appointment from lists of applicants registered by the Commission. The Commission shall require applicants for registration in the labor class to furnish such evidence or take such Examinations as the Commission considers proper with respect to the following: age, residence, physical and mental ability to perform the essential functions of the Position applied for, with or without reasonable accommodations, honesty, capacity, industry, and experience in the work or employment for which Application is made. Laborers who fulfill the requirements shall be placed on an Eligibility list for the kind of labor or employment sought, and preference shall be given in employment in accordance with the rating received from such evidence or in such Examinations. Upon the request of the appointing officer, stating the kind of labor needed, the pay and probable length of employment, and the number of the Employees needed, the Commission shall certify from the highest on the list double the number actually needed for the particular work. If more than one (1) applicant receives the same rating, priority in time of Application shall determine the order in which their names shall be Certified for appointment.
-

CHAPTER SIX APPLICATIONS

6.01 Generally

Each Application, whether for employment or for Examination, must be submitted upon forms prescribed by the Commission and shall require the applicant to personally certify the truth and accuracy of the information contained in the Application. Each Application form must be completed in its entirety and legibly printed in ink or type written and submitted to the Commission in a timely manner. The Commission will provide a reasonable accommodation, if necessary, to assist an applicant in completing the form.

No Application shall be accepted after the date and time for filing has passed.

6.02 Forms

Application forms shall be provided without charge by the Commission and shall be available in the office of the Appointing Authority, or electronically, or at other locations as announced by the Commission.

The Commission may require applicants or candidates to provide references from persons having knowledge of the character of the applicant or candidate.

Completed Application forms of applicants who are placed on Eligibility lists shall be retained by the Commission during the effective period of such Eligibility lists. The Application forms of candidates who are appointed to or employed in any Classified Civil Service Position shall be retained by the Commission during the tenure of those Employees.

6.03 Method of Filing

Fully completed Applications containing or accompanied by all of the information and documentation required by the Application form and/or the job notice and executed by the applicant or candidate or their properly authorized agent, shall be filed with the Secretary or with such other Employee or agent of the Appointing Authority as designated in the job notice. The date of the receipt of each Application shall be mechanically or electronically placed on each Application form. The Secretary shall maintain registers which contain the name of each applicant, the date and time of the receipt of each Application form, and all documents which accompany the Application form.

6.04 Residency Requirements

Every applicant for a Position in the Classified service must be a citizen of the United States or must legally declare and signify in writing their intention to become, prior to appointment, a citizen of the United States.

6.05 Age Restrictions – Police and Fire

- A. Applicants for the entry level Police Department classification must have attained the age of twenty-one (21) years prior to the Application deadline.
- B. Applicants for the entry level Fire Department classification must have attained the age of eighteen (18) years prior to the Application deadline. No person may apply for or receive an original appointment as a firefighter if that person has attained the age of forty-one (41) years prior to their appointment.
- C. This section does not prevent the City from establishing a police or fire cadet program or employing persons who have attained the age of eighteen (18) years as police or fire cadets for the purposes of training them to become police officers and firefighters, respectively.

6.06 Licenses, Certifications, Education and Training

Every applicant shall have and shall be able to demonstrate that they possess the required licenses and certifications, and the educational, training, or equivalent qualifications required of the Position for which Application is made. A candidate shall provide the Commission with reasonable and adequate proof thereof when the Commission requests such information from all candidates for a Position, or when the Commission has sufficient reason to believe that the applicant may not possess such qualifications. In particular, the Commission shall not establish any educational requirements as a prerequisite for Examination that are not necessary to the performance of the Position to be filled. (See also Rule 7.01 regarding educational requirements as a condition for Examination).

6.07 Character and Fitness

Satisfactory information that an applicant has been involved in or committed any acts or offenses as described in this Section, and that is discovered at any time by the Commission, either before or after any Examination, shall justify the Commission in refusing to permit the Examination of such applicant, or, after testing, in refusing to certify the applicant as Eligible for employment or appointment.

The provisions of the above paragraph shall apply to, but are not limited to, the following actions of any applicant or candidate:

- A. act or acts that demonstrate a character trait that would be detrimental to the successful performance of the employment sought; or
-

- B. a pattern of poor work habits and/or performance with previous employer(s); or
- C. having been dismissed for just cause, including delinquency or misconduct, from any public service employer or any branch of the United States armed forces; or
- D. having been convicted of a felony; or
- E. current use of illegal drugs; or
- F. having engaged in conduct that is contrary to the public interest and/or generally acceptable community standards; or
- G. in relation to the Application process, having made any false statement or false representation of any material fact; or
- H. in relation to their Application or Examination, in establishing their eligibility, and/or in securing their appointment, having practiced, or attempted to practice any deception or fraud.

6.08 Acceptance or Rejection of Application and Notice to Applicants

The completed Application and required documentation, information, and material requested therewith and secured in relation thereto shall be the sole criteria in determining an applicant's eligibility for an Examination. Information showing that an applicant meets all of the minimum qualifications as stated in an Examination notice must appear on the Application itself or be attached to the Application as required by the job notice. No additional information will be accepted from the applicant or on behalf of the applicant after the Application filing deadline.

Applicants whose Applications are accepted shall be given written notice of the date, time, and place of any Examination. Such notices shall be given at a reasonable time before the Examination date and shall apprise applicants that reasonable accommodations are available to disabled persons to afford them access to the Examination process.

Failure of an applicant to indicate on their Application their qualifications as to education, certification, licensing, or any other requirement shall be sufficient cause to exclude an applicant from Examination. Whenever a submitted Application shows that an applicant is not qualified under these Rules for consideration for a Position for which they has made Application, or that the Application is not in reasonable and substantial compliance, the Secretary or the Commission shall reject the Application, and the Secretary, shall forthwith notify the applicant in writing of that action and of the reason for the same.

Certification to an Eligibility list of an individual who has not met all of the requirements of these Rules shall not be considered a waiver of any requirements of these Rules, and shall

not bar removal of the applicant from an Eligibility list by the Commission as a result of said failure.

The Commission shall make reasonable accommodations available to otherwise qualified disabled persons to afford them access to the Examination process.

6.09 False Statements

Fraudulent conduct or false statements by any applicant or by others with an applicant's connivance, in any Application or Examination process, shall be deemed cause for exclusion of such applicant from any Examination, or for removal of their name from an Eligibility list, or for termination from service after appointment or employment. No person shall be denied Examination, removed from an Eligibility list, or terminated from service after appointment or employment under this provision without an opportunity to be heard by the Commission.

6.10 Fitness for Service

- A. Every applicant appointed to or employed in the Civil Service shall be physically and psychologically able, with or without reasonable accommodation, to perform the essential functions of the Position to which they are appointed, or in which they are employed.
 - B. Any applicant to whom a conditional offer of employment has been tendered for a Position within the Police Department or the Fire Department of the City may be required to undergo a psychological evaluation, medical examination, and/or drug testing as required by the Appointing Authority, administered by appropriate, and licensed or certified medical professionals selected and designated by the Commission. The intent is to provide information as to the applicant's physical and psychological health that is relevant to their ability to perform the essential functions of the Position in relation to which a conditional offer of employment has been tendered, with or without reasonable accommodation. The Commission may order physical agility tests where applicable.
 - C. The Commission may require that Rule 6.10 (B) above should also apply to other divisions or departments within the City or with other Appointing Authorities. Such requirements shall be uniform as to all Positions within an employment classification.
-

CHAPTER SEVEN EXAMINATIONS

7.01 General

- A. All applicants for Positions in the Classified Civil Service as defined in Section 5.03 of these Rules shall be subject to a uniform Examination process.
- B. Examinations may include an evaluation of such factors as education, training, capacity, knowledge, manual dexterity, and physical or psychological fitness. The Examinations may consist of one (1) test, or of more than one (1) test. Examinations may be written, oral, demonstration of ability to perform essential functions, or an evaluation of training and experience, and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the Position for which appointment is sought. Tests may include structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and any other acceptable testing methods. Where minimum requirements are established for any Examination, the same shall be specified in the Examination announcement.

The Commission shall prescribe the subjects of each Examination and the relative weights to be assigned to each process. Such relative weight shall be made known to the applicant prior to the date of the Examination.

Educational requirements for Examination shall only apply to Positions for which educational requirements are expressly imposed by the Ohio Revised Code or federal requirements or to Positions for which the Commission determines that the educational requirements are job-related.

7.02 Types of Examinations

There shall be two (2) types of Examinations administered by the Commission in accordance with these Rules, to wit: Examinations for original appointments, and Examinations for Promotion. Examinations for original appointments shall be open to all individuals who otherwise qualify for appointment to or employment in a Position under these Rules. Examination for Promotion shall be limited to members of the Classified Civil Service who meet the requirements for Promotion to a Position under these Rules.

7.03 Separate Examinations

Separate Examinations shall be given, and separate Eligibility lists shall be maintained by the Commission as to the Appointing Authority within the jurisdiction of the Commission, and as to separate Positions and classifications within the service of the same. Separate Examinations shall be given for Positions in the Police Department and Fire Department, and separate rules may apply with respect to each. No person may be transferred from one list to another, but a single test or combination of tests may be utilized to examine and evaluate

applicants for similar Positions or classifications. Appointments and Promotions shall be affected only from the separate Eligibility lists which are applicable. Transfers of personnel from one Appointing Authority to another, between the Fire Department and the Police Department of the City, or between the Police or Fire Departments and any other division or department of the City are prohibited.

7.04 Competitive Examinations and Required Number of Candidates

A competitive Examination will not normally be administered unless there are at least two (2) applicants eligible to compete. Furthermore, if fewer than a sufficient number of candidates apply or are eligible to compete in a competitive Examination, the Appointing Authority may request approval of an appointment without competitive Examination. In this case, “fewer than a sufficient number” means that not enough qualified applicants apply or are eligible to compete to allow the Commission to certify the number of names to the Appointing Authority for a normal discretionary selection (e.g., 10 candidates for an original appointment, or 3 candidates for a Promotion). The Commission may elect to conduct a competitive-type Examination nonetheless to test the capacity and capability of the applicants.

7.05 Examinations for Appointment without Competitive Examination

Whenever there are urgent reasons as determined by the Commission that an Appointing Authority must fill a Vacancy, and the Commission cannot certify a sufficient list of Eligibles, the Appointing Authority may submit the nominee’s name and qualifications, along with any required supporting documentation, to the Commission. The Commission may conduct an Examination, if so desired, and determine whether to certify the nominee as qualified. If the Commission certifies the person as qualified, the Appointing Authority may then appoint that person, who shall be designated as “appointed without competitive Examination.”

Any Employee in the Classified service of the City who is appointed to a Position under ORC Section 124.30 and either demonstrates merit and fitness for the Position by successfully completing the probationary period for the Position or remains in such Position for a period of six (6) months of continuous service, whichever is longer, shall become a permanent appointee in the Classified service at the conclusion of that period. This provision shall not apply to temporary appointments or to Promotional Positions in the Police or Fire Department.

7.06 Examinations for Promotion without Competitive Examination

If each and every one of the conditions listed below is met, the Commission may authorize the Appointing Authority to nominate a qualified person for Promotion without competitive Examination under ORC 124.30:

1. A Promotional Vacancy exists in the Classified service;
-

2. there are urgent reasons as determined by the Commission for filling the Vacancy;
3. no sufficient Eligibility list is in effect for that Position;
4. no other applicable law or ordinance prohibits Promotion without competition (e.g., ORC 124.44); and
5. the Commission decides that it is not necessary or practicable to conduct a competitive Examination.

The Commission must approve the person's qualifications for the Position, considering the requirements for the class, before the appointment is made. A person appointed to a Promotional Position in the Police or Fire Department under this rule shall not achieve permanent status merely by serving in the Position.

7.07 Examination Notices and Sites

- A. Examinations for original or Promotional appointments shall be held at such times and in such places as the Commission deems appropriate and shall be administered in accordance with the applicable sections of ORC Chapter 124 and these regulations.
 - B. Printed public notice of each Examination for original appointment in the Classified service shall be placed in a newspaper of general circulation in the City on one (1) occasion not less than fourteen (14) calendar days prior to the Examination date. Copies of said notice shall also be posted in a conspicuous place in the office of the Appointing Authority by the Secretary or designee. All notices shall include the date, time, place, and general scope of the competitive Examination, and any unique requirements for that specific Examination. Notices may also be posted electronically or distributed to such persons or organizations as may be interested in the Position(s) to be filled.
 - C. Notice of competitive Promotional Examinations shall be posted by the Secretary in conspicuous places in each department in which Employees would be eligible to compete for such Promotion and may be posted electronically and/or distributed to individual Employees. Such notices shall be posted not less than fourteen (14) calendar days prior to the Examination date, and shall include the date, time, place, and general scope of the competitive Examination and any unique requirements for that specific Examination.
 - D. The Commission may take such additional steps as it deems appropriate and advisable to effect notice of an Examination, and to secure qualified applicants.
-

7.08 Original Appointments: Police and Fire

- A. In relation to Examinations for Positions within the Police Department and the Fire Department, Examinations for original appointments may include written testing, oral testing, and/or an assessment center.
- B. No applicant shall be tested orally or participate in the assessment center unless they have completed the applicable written test.
- C. If oral examinations of qualified applicants are given, they shall be prepared, conducted, and graded by an Interviewing Board designated or approved in advance by the Commission.
- D. The provisions of this Section shall apply in the event this Section is in conflict with any other provisions of these Rules.

7.10 Medical, Physical, Psychological, or Drug Testing

- A. **GENERAL:** Whenever physical and/or psychological qualifications are of especial importance, the applicant shall be required to pass a physical and/or psychological examination and be certified as qualified in such respect, whether before admission to the Examination, or before being placed on the appropriate Eligibility list, or before Certification for appointment, as the Commission may deem advisable.

Medical examinations, other than drug tests, will only be conducted after a prospective appointee has received a conditional offer of employment. However, the Commission may require that an applicant be medically examined prior to any test (e.g., a physical agility test, etc.) to determine the applicant's ability to participate safely in the test. When asking for such a medical opinion, the Commission will describe the agility or fitness test, and ask "Can this person safely perform this test?" (See also Sub-Section F below).

Examinations must be job-related and based upon a classification related necessity.

- B. **CONTROLLED SUBSTANCES:** Such examinations shall include a screening for the use of controlled substances and will be conducted with in accordance with any applicable state or federal laws and regulations regarding the same, including the Department of Transportation Rules and regulations for Commercial Driver License holders.
 - C. **BY WHOM CONDUCTED:** Physical, psychological, or drug screening examinations, whenever required by the Commission, shall be made by a licensed or certified professional designated by the Commission and paid by the Appointing Authority; and the professional shall furnish a certificate as to the applicant's fitness for duty, with or without reasonable accommodation.
-

- D. **RESULTS CONFIDENTIAL:** The results of physical, psychological or drug screening examinations shall be used solely to determine an applicant's eligibility to take an examination, or eligibility for appointment after an Examination, and shall not become a part of the applicant's Examination score. Records of such examinations shall be treated as confidential medical records to the extent allowed or required by law.
- E. **REASONABLE ACCOMMODATION:** Any applicant or candidate who believes that they could be adversely affected by any segment of the Examination process or by the length of any segment of the Examination process may request a "reasonable accommodation" be considered by the Commission.

Written requests for such reasonable accommodation must be attached to the candidate's Application and must fully describe the accommodation requested and the reason for such accommodation.

The Commission may, if necessary, conduct an informal and confidential fact-finding process to discuss the issue of accommodation and will release its finding within seven (7) calendar days following the conclusion of such informal fact-finding process.

- F. **SPECIAL PROVISIONS REGARDING EXAMINATIONS FOR POLICE AND FIRE APPLICANTS:** In addition to any other Examination of Employees under these Rules, no person will be Eligible to receive an original appointment to the Police Department as a police officer, or to the Fire Department as a firefighter under the Civil Service laws, unless they have, not more than one hundred twenty (120) calendar days prior to appointment, passed a physical examination, given by a licensed physician, a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife certifying that the applicant is free of cardiovascular and pulmonary diseases, and showing that they meet the physical requirements necessary to perform the essential functions of a police officer or firefighter as established by the Commission.

The Commission will only have such an examination conducted after the prospective appointee has received a conditional offer of employment. The Appointing Authority will pay the fee for the physical examination. The Appointing Authority shall file the report or findings of the licensed physician (or other practitioner listed above) with the Police and Fire Pension Fund.

The Police Department and Fire Department will conduct any testing required by the Police and Fire Pension Fund, under the requirements of ORC 742.38 and O.A.C. 742-1-02, Member Minimum Medical Testing and Diagnostic Procedures.

7.11 Admission of Applicants to Examination

No applicant shall be admitted to any original appointment Examination or Promotional Examination if such applicant entered the Examination registration line after the advertised beginning time of such Examination.

7.12 Identity of Applicants Concealed

The Commission may use appropriate means to ensure that the identity of person(s) taking competitive assembled written examinations, computer proficiency examinations, or other examinations so designated by the Commission are not known to the grader while the Exam is being graded. In such cases, if the Commission determines that the integrity of any individual examination has been compromised by any examination bearing the name of the applicant or any name or other identification mark, the Commission may reject the examination, using the same procedures that apply to disqualifications under Rule 9.05 herein.

To satisfy this rule, the identity of each applicant will be concealed prior to testing by assigning a unique identifying number to each applicant. This number shall be written on all Examination documents to be used by the applicant. Neither the applicant's name nor any identifying marks are to be placed on any Exam document returned by the applicant. If any such name or identifying mark is observed, then those documents bearing such name or identifying mark shall be rejected. The applicant will be disqualified from further participation in the Exam process and will be so notified.

7.13 Extension of Examination Time

No applicant shall be given a longer time than has been prescribed by the Commission for the completion of an Examination.

Separate time limits may be established as a reasonable accommodation if requested in writing by the candidate as an attachment to their Application (see Paragraph 7.10(E) above) and if approved in advance by the Commission.

Requests for additional time, or accommodation, must be submitted with supporting documentation at the time of filing Application for the Examination (see Paragraph 7.10(E) above).

7.14 Visitors at Examinations

No visitors shall be admitted to the Examination room during any Examination except by prior approval of the Commission.

7.15 Postponement or Cancellation of Examination

A scheduled Examination may be canceled or postponed by order of the Commission, for any adequate reason. Reasonable efforts shall be made to notify each qualified applicant of the cancellation or postponement and will include written notice to the applicant's last known post office and/or electronic address, except under circumstances which make written notice not practicable. Any individual member of the Commission may cancel or postpone any scheduled Examination under emergency conditions.

7.16 Waiver

In the event an individual who has not met the requirements of these Rules is permitted to take an Examination, the same shall not be deemed to be a waiver of any requirements established by these Rules.

7.17 Promotional Examinations

Vacancies in Positions in the Classified service shall be filled, when possible, by Promotions. All Promotional Examinations shall be competitive and may include written tests, oral tests, and/or assessment centers, and shall relate to those matters which test the ability of the person being examined to discharge the particular duties of the Position sought. The Appointing Authority may also take into consideration documents that reflect conduct and capacity in office, including, but not limited to, performance evaluations and active disciplinary record considering Unsatisfactory Performance.

7.18 Limitation on Original Appointments: Police and Fire

Positions above the rank of Patrol Officer in the Police Department or Firefighter in the Fire Department may not be filled by original appointment, except as otherwise provided in these Rules.

7.19 Promotional Examinations: Fire

- A. Promotional Examinations for Positions within the Fire Department shall relate to those matters which test the ability of the person examined to discharge the particular duties of the Position sought and shall include a written testing component, provided however that in examinations for Positions requiring the operation of machines or equipment, practical demonstration tests of the operation of such machines or equipment may be part of the examination, as long as said demonstrations and tests afford consideration of reasonable accommodations which may be necessary for disabled persons to perform the essential functions of the Position to which appointment is sought.
 - B. Notice of a Promotional Examination for a Position or Positions in the Fire Department, unless waived by all persons eligible to participate, shall be published not less than thirty (30) calendar days prior to the Examination, and shall contain a
-

description of the source of the material from which any written examination questions are prepared. Such source material shall be readily accessible to the examinees. Failure to comply with this requirement shall render void the pursuant Examination. This paragraph shall not prohibit the use of questions having answers based upon experience in the fire service within the Fire Department of the City.

CHAPTER EIGHT
GRADING EXAMINATIONS, ADDITIONAL CREDIT, AND INSPECTION

8.01 Grading Examinations and Addition of Extra Credit Generally

The following are the rules for grading examinations and granting extra credit, except to the extent these rules have been superseded by collective bargaining agreements between an Appointing Authority and a public Employee collective bargaining representative, or by ordinance (See Rule 1.02: Construction).

The addition of extra credit shall be administered as follows:

- A. Applicants for original appointment shall be entitled to only such extra credit as is set forth in this Chapter.
- B. Applicants for Promotional appointments shall be entitled to only such extra credit as is set forth in Section 8.05 of this Chapter (relating to seniority and efficiency credit).
- C. In scoring all original and Promotional Examinations, no extra credit shall be given to any applicant, unless such applicant has achieved the minimum passing score on the Examination in its entirety.

8.02 Minimum Passing Score

- A. The Commission shall establish the minimum passing score of any professionally prepared Civil Service Examination. When available in advance, this information will be included on all job advertisements and Exam notices.
- B. Where such minimum passing score is unavailable from a professional testing service, and if the Commission has not established another minimum passing score, the minimum passing score will be one standard deviation below the mean. One standard deviation will be calculated as the square root of the variance, where the variance is calculated as the sum of the square of the difference between each candidate's score and the mean, divided by one less than the total number of scores.
- C. Applicants must achieve an overall minimum passing score, excluding any additional credits provided by these Rules, as a prerequisite for further consideration for employment, appointment, or Promotion, and for Certification to an Eligibility list.

8.03 Original Appointment – Uniformed Service Credit and Veterans Preference

- A. Any applicant for original appointment, who has completed service in the uniformed services as described in ORC 124.23, who was honorably discharged or transferred to reserve duty with evidence of satisfactory service, and who otherwise meets the qualifications of that section, may file with the Commission a certificate of service or honorable discharge for extra credit for such service. The Commission shall grant
-

additional credit of twenty percent (20%) of the total grade given in the regular examination to any applicant who files for the extra credit and qualifies, provided that grade was a passing grade.

- B. An applicant who receives an additional credit under the immediately preceding paragraph shall not receive additional credit under this paragraph. A member in good standing of a reserve component of the armed forces of the United States, including the Ohio National Guard, who successfully completes the member's initial entry-level training shall receive a credit of fifteen per cent (15%) of the person's total grade given in the examination, if that grade was a passing grade.
- C. Such requests for uniformed service credit must be submitted to the Commission as an attachment to the Application for employment or examination and must, at the time of submission, be accompanied by proof of uniformed service as described above. Uniformed service credit requested other than in compliance with this provision will not be honored.
- D. Any applicant who has received a grade which includes their uniformed service credit will be granted a veteran/reservist preference and will thus receive a priority in ranking over any applicant that obtains an equal grade but does not receive the uniformed service credit. Ties among veterans shall be decided by the order in which their Applications were filed with priority given the applicants filing the earliest. A tie between a veteran and a reserve component member shall be decided in favor of the veteran.

8.04 Original Appointment – Addition of Extra Credit

- A. At the discretion of the Commission, extra credit for any original appointment may be added to the score of any candidate who achieves the required minimum passing score(s).
 - B. The reasons for extra credit may include, but are not limited to licenses, certifications, educational degrees, skill levels, non-probationary status with the City or other job-related criteria. The criteria for the addition of extra credit for each classification must be pre-approved by a majority vote of the Commission and must be included in all job advertisements and Exam notices.
 - C. Once the Commission has approved extra credit for a specific classification the same extra credit criteria must be used for ensuing examination procedures for the same classification unless specifically modified by the Commission.
 - D. Extra credit as provided for in this Section shall not exceed twenty percent (20%) of the passing score. The provisions of this Section are not intended to replace or increase the twenty percent (20%) uniformed service credit provided in applicable ORC provisions.
-

8.05 Promotional Seniority and Efficiency Credit

- A. In Promotional Examinations, additional credit for seniority in the civil service of the City, State, or any other political subdivision shall be added to the examination grade as provided for within these Rules. No credit for seniority or efficiency shall be added to an examination grade unless the applicant achieves at least the minimum overall passing score required. For Employees of an Appointing Authority who are subject to the terms and conditions of a collective bargaining agreement, the definition of the term “seniority” for the purposes of this Section shall be defined in such collective bargaining agreement. Efficiency credit as provided for in these Rules, shall only be applied after the Commission has approved, for use in establishing Employee efficiency, the Employee evaluation practices and procedures and the Employee evaluation record process as used by the Appointing Authority, taking into account Unsatisfactory Performance.

Notwithstanding the previous paragraph, no person who has resigned a Classified Position in a police department or a fire department will receive seniority credit for service prior to such resignation.

Furthermore, any person who has either been convicted of a felony within the meaning of ORC 124.34 or removed from their Position in connection with such a conviction or the underlying facts, is barred from receiving seniority credit, to the extent the Commission may disallow credit under that section. This paragraph is not meant to imply any other limitations on the Commission’s authority regarding such person.

- B. Except for Employees of the Wilmington Fire Department, seniority service credit for all other Employees in the Classified service shall equal for each of the first four (4) years of full-time service, one (1) point; and for each of the fifth (5th) through fourteenth (14th) years of full-time service, six-tenths (.6) of one (1) point.
- C. In computing the seniority credit for Employees of the Wilmington Fire Department, one-half ($\frac{1}{2}$) of the credit set out in Sub-Section B above shall be given for one-half ($\frac{1}{2}$) year of service.
- D. For purposes of this Section, service interrupted by military duty, by job related injury, or by approved leave of absence shall not constitute a break in seniority. In these instances, seniority service credit for purposes of Promotion will continue to accrue.

Furthermore, if an Employee meets the requirements for preserving or accumulating seniority under the Uniformed Services Employment and Reemployment Rights Act (USERRA), or a comparable Ohio statute, the Commission will honor the requirements of USERRA or the Ohio statute.

8.06 Inspection and Grading of Examination Papers

- A. The Commission shall provide written notice of the scores of any written Examination to each applicant by U.S. Mail to the address provided in writing by the applicant. Applicants may select in writing to be notified electronically in lieu of U.S. Mail.
- B. Each applicant shall have the right to inspect their own Examination documents and the grading key. Inspection provided for in this provision shall not be permitted of any standardized examinations prepared by a vendor retained by the Commission or of examinations prepared by the Commission and determined by the Commission to be a standardized exam which may be used in the future. Requests for inspection as described in this Sub-Section B must be in writing and must be received by the Secretary no later than the fourteenth (14th) calendar day following the date on which the notice of scores was provided to the applicant.

Written requests for inspection must include the following information: Applicant's name and address, Position applied for, date of exam, daytime phone number. The applicant may also voluntarily provide an electronic address. Requests that do not contain all requested information, or that contain illegible information will not be processed. Inspections will be scheduled by the Secretary.

- C. Based on the examination of their exam documents, any applicant who believes that there has been a grading error may submit a written protest. Such protest must be on a form provided by the Secretary and must be completed and submitted to the Secretary before the applicant leaves the meeting at which the examination of the exam documents occurred. No protest will be accepted at any other time. The identity of the candidate who submits a protest form will not be revealed to the Commission. The Commission shall then decide whether to change the participant's grade. The Commission may also correct the grades of any other participants. An Employee that wants to protest the grading of a Fire Department Promotional Examination must file a protest in accordance with this rule, and the protest will be considered an appeal and heard by the Commission as provided in Rule 11.02.
 - D. Any person who inspects the questions, scoring keys, and/or answers pursuant to the provisions of this Section, shall be thereafter prohibited from taking the same examination for the same Position in the classified service within two (2) years after their inspection of the questions. However, the Commission may waive this prohibition if it determines that a subsequent examination and scoring key or answers are not similar to those of the examination that had been examined.
-

CHAPTER NINE ELIGIBILITY LISTS

9.01 Preparation of Eligibility Lists

The Commission shall prepare and keep open to public inspection, from the results of each examination process, an Eligibility list of those persons whose general average score in the examination is not less than the minimum passing grade, and who are otherwise Eligible for appointment. Such persons shall be ranked upon the Eligibility list as candidates in the order of their relative scores as determined by the examination process plus any applicable extra credit. Whenever it becomes necessary to hold a subsequent examination in order to obtain additional eligible candidates, the Commission may consolidate existing lists for the same class by rearranging the names of those eligible therein according to their scores. Each person whose names appears on an existing list, which is to be merged with a new list, shall have an opportunity to compete in the second examination, with the understanding that their score on the second examination shall be the score used in preparing the new Eligibility list.

9.02 Term of Eligibility List

The term of each Eligibility list may be fixed by the Commission for at least one (1), but not more than two (2) years. The Commission may at any time, abolish an Eligible List when the number of Eligible persons therein is reduced to less than one (1) person for a Promotional list, or less than ten (10) persons for other lists. Any list that has been in effect for more than one (1) year may, at the discretion of the Commission, be terminated at any time in the public interest.

9.03 Resolving Ties on Eligibility Lists

In the event that two (2) or more applicants receive the same score in an original appointment Examination, priority in the time of filing the Application with the Commission shall determine the order in which their names shall be placed on the Eligibility list. An applicant eligible for veteran/reserve preference under ORC 124.23 shall receive priority in rank on the Eligibility list over other candidates on the list with a rating equal to that of the veteran/reservist. Ties among veterans shall be prioritized by the order in which the Applications were received. A tie between a veteran and a non-veteran reservist shall be decided in favor of the veteran.

In the event that two (2) or more applicants receive the same score on a Promotional Examination after adding any applicable extra credit, seniority with the Appointing Authority shall determine the order in which names shall be placed on the Eligibility list.

9.04 Military Service – Effect on Eligibility List

Any person on an Eligibility list who fails to report to the Appointing Authority when so notified to do so or is unable to accept an appointment when offered by reason of being in uniformed service, shall not by reason of such failure be removed from the Eligibility list. If

and to the extent the Employee is entitled to be Certified under USERRA or a comparable Ohio law, they will be so Certified.

9.05 Disqualification from Eligibility List

- A. The name of any person appearing on an Eligibility list who:
1. fails to report, or arrange to report, or arrange within a reasonable time for an interview with an Appointing Authority; or,
 2. fails to timely respond to a notice from the Commission; or,
 3. provides incorrect, incomplete, or untruthful information to the Appointing Authority; or,
 4. fails to timely respond to any request for information during background checks; or,
 5. declines an appointment without reason satisfactory to the Commission; or,
 6. who cannot be located by the U.S. Postal Service;

shall not thereafter be Certified to the Appointing Authority as Eligible for appointment. The potentially disqualified person shall be notified concerning the Application of this Section at the last address provided in writing by the candidate. The disqualified candidate's name may again be Certified from the Eligibility list only after a thorough and satisfactory explanation of the circumstances is made to the Commission. In the event of the refusal of an appointment by an Eligible candidate, the Appointing Authority shall so notify the Commission.

- B. In case an Eligible person's name appears on more than one (1) Eligibility list, appointment to a Position in one class shall be considered a waiver for appointment from Eligibility lists for classes in which the salary is equal or lower.
- C. If, at any time after the creation of an Eligibility list, the Commission has reason to believe that any person whose name appears on any list is disqualified from appointment because of false statements made on their Application, inability to perform the job duties, lack of a necessary license, lack of insurability, or for other comparable reasons, such person shall be notified and given an opportunity to be heard by the Commission. If such person fails to appear for hearing, or upon being heard, fails to satisfy the Commission, that person's name shall be removed from such Eligibility list.

9.06 Removal from an Eligibility List

Names may be removed from an Eligibility list by the Commission in accordance with these Rules, for any of the following reasons:

- A. A dated written request or acknowledgment signed by the Eligible;
- B. The expiration or revocation of the list;
- C. Failure of the person listed on the Eligibility list to fulfill all of the requirements and qualifications set out by or under these Rules;
- D. The refusal or failure of the Eligible within seven (7) calendar days following notice of appointment to accept appointment, unless a waiver of such appointment is sought by the Eligible and approved by the Commission;
- E. The death of the Eligible.

9.07 Duty of Eligibles

Each person on an eligibility list shall file with the Appointing Authority and the Commission written notice of any change of address. Failure to do so may be considered sufficient reason for not certifying their name to the appropriate Appointing Authority for future appointment.

9.08 Revocation of Eligibility List

An eligibility list may be revoked, and another Examination ordered only when, in the judgment of the Commission, such action is deemed advisable by reason of errors, fraud, or obviously inappropriate standards prescribed in connection with any examination. All competitors in the first examination shall be notified and shall be eligible to compete in the rescheduled examination without filing a separate Application. No eligibility list shall be altered or revoked, except upon written notice to all persons whose standing may be affected and upon an entry in the minutes of the Commission of the reasons for such alteration or revocation.

9.09 Separate Eligibility Lists for Police and Fire

Notwithstanding the provisions of Section 9.01 above, separate eligibility lists shall be maintained for original and Promotional appointments in the Police and Fire Departments. No person may be transferred from one list to the other, and appointments and Promotions shall be made only from eligibility lists maintained by each department.

CHAPTER TEN
APPOINTMENTS AND Promotion

10.01 Appointments

The following are the rules for appointments and Promotions, except to the extent these rules have been superseded by a collective bargaining agreement between the Appointing Authority and a public Employee collective bargaining representative, or by ordinance (See Rule 1.02: Construction). Appointments to all Positions in the Classified service, other than those that are filled by exempt Promotion, transfer, or reduction, as provided in ORC Sections 124.01 to 124.64 and these Rules shall be made only from among those persons whose names are Certified to the Appointing Authority.

10.02 Appointment Procedure and Number of Names Certified

- A. The Appointing Authority shall notify the Commission in writing of the classification title and the number of Positions to be filled. Except as otherwise provided in ORC 124.30 (See Rule 10.06: Temporary or Exceptional Appointments), ORC 124.31 (relating to Promotions), ORC 124.27, and these Rules, the Appointing Authority shall appoint in the following manner: each time a selection is made, it shall be from one (1) of the names that ranks in the top ten (10) names on the Eligible list or the top twenty-five percent (25%) of the Eligible list, whichever is greater. In the event that ten (10) or fewer names are on the Eligible list, the Appointing Authority may select any of the listed candidates but is not mandatory. The Appointing Authority can then request that the Commission consider the initiation of a new testing procedure. Appointment to any Position in any unskilled labor classification shall comply with the appropriate provisions of these Rules.
- B. The Appointing Authority, having notified the Commission of the Position to be filled, and having received such Certified list may then appoint. Except as provided in Rule 10.09 herein with respect to Promotion within the Police and Fire Departments, the Appointing Authority shall fill such Position by appointment of one (1) of the candidates Certified to each Vacancy.
- C. If an eligibility list becomes exhausted and until a new list can be created, or when no eligibility list for such Position exists, names may be Certified from any other eligibility list appropriate for the group or class in which the Position to be filled is classified. The Commission may also approve a temporary or exceptional appointment (See Rule 10.07 Temporary or Exceptional Appointments).

10.03 Veterans Preference on Original Appointment

An applicant who qualifies for veteran's preference under ORC 124.23, who has been honorably discharged or separated under honorable conditions therefrom, and who is a resident of Ohio, and whose name is on the eligibility list for a Position, shall be entitled to preference in an original appointment to such competitive Position over any other person

Eligible for such appointment and standing on the list thereof with a rating equal to that of each such person.

10.04 Probationary Periods

- A. All non-temporary original and Promotional appointments to the Classified service, including appointments made pursuant to ORC 124.30 shall be for a probationary period of not less than sixty (60) calendar days nor more than one (1) year, as determined by the Appointing Authority, unless a different probationary period is provided for in these Rules. If the Appointing Authority does not determine that probationary period, and if the specific probationary period is not provided for in these Rules, the probationary period for the non-temporary Classified appointment shall be one (1) year from the effective date of original or Promotional appointment.
- B. No Promotion shall be final until the appointee has satisfactorily served their Promotional probationary period.
- C. Service as a temporary or part-time Employee in the same or similar class shall not be included in the probationary period.
- D. Within ten (10) calendar days prior to the end of any probationary period, the Appointing Authority shall inform the Commission in writing of the decision either to make the appointment of the probationary Employee final or to remove such probationary Employee.
- E. All Promotional probationary periods provided for in this Chapter and all service credit periods provided for in these Rules shall begin on the day that such promoted Employee:
 - 1. Receives and acknowledges an oath of office (sworn in) to a higher rank in the Police Department or the Fire Department; or
 - 2. The starting date in the promoted classification as designated in writing by the Appointing Authority in departments other than the Police Department or the Fire Department.

10.05 Removal or Reduction during Probation

If the service of a probationary Employee is unsatisfactory, they may be removed or returned to their prior Position at any time during the probationary period without right of appeal. In the case of the removal of a probationary appointee, the Appointing Authority shall immediately notify the Commission when the appointment is to be terminated. Such notification shall be in writing or electronically transmitted and state the reasons therefor. A failure to notify the Commission or state the reasons for the decision shall not confer any tenure rights on the Employee.

10.06 Temporary or Exceptional Appointments

Positions in the Classified service may be filled without competition as follows:

- A. **APPOINTMENTS WITHOUT COMPETITIVE EXAMINATION:** Whenever there are urgent reasons, as determined by the Commission, for filling a Vacancy in any Position in the Classified service and the Commission is unable to certify names to the Appointing Authority from an eligibility list compiled after a competitive Examination, the Appointing Authority may nominate a person to the Commission for non-competitive Examination. If such nominee is Certified by the Commission as qualified after such non-competitive Examination, that person may be appointed to fill such Vacancy. The appointment shall not become permanent until the person shall have successfully completed the probationary period or served continuously in the Position for six (6) months, whichever is longer. A person appointed to a Promotional Position in the Police Department or Fire Department under this rule shall not achieve permanent status merely by serving in the Position.
- B. **TEMPORARY APPOINTMENTS:** A temporary appointment may be made without regard to the provisions of ORC 124.01 to 124.64. Except as otherwise provided in ORC 124.30(A), the temporary appointment may not continue longer than one hundred twenty (120) calendar days. Where a Position is vacant for a temporary period by reason of sickness, disability, or other approved leave of absence of a regular Employee, a temporary appointment may be made for a period longer than one hundred twenty (120) calendar days and may continue during the period of sickness, disability, or other approved leave of absence.
- Successive temporary appointments to the same Position shall not be made under this rule. The acceptance or refusal by an Eligible of a temporary appointment shall not affect the person's standing on the register for permanent employment. Nor shall the period of temporary service be counted as a part of the probationary service in case of subsequent appointment to a permanent Position. All temporary appointments shall be promptly reported to the Commission.
- C. **TEMPORARY AND INTERMITTENT EMPLOYEES ARE UNCLASSIFIED:** Persons who receive temporary or intermittent appointments are in the Unclassified service and shall serve at the pleasure of their Appointing Authority.
- D. **SUSPENSION OF RULES - EXCEPTIONAL APPOINTMENT:** In case of a Vacancy in a Position in the Classified service where peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable, and that the Position can best be filled by a selection of some designated person of high and recognized attainments in such qualities, the Commission may suspend the provisions of ORC 124.01 to 124.64 and these Rules requiring competition in such case. No such suspension shall be general in its Application.
-

All such cases of suspension shall be reported in the annual report of the Commission with the reasons for this suspension of the rules. Employees appointed under this rule shall achieve permanent status, upon satisfactory completion of the required probationary period or completion of six (6) months of continuous service in the Position, whichever is longer.

10.07 Eligibility for Permanent Classified Status

Any Employee in the Classified service of an Appointing Authority who is appointed to a Position under ORC 124.30 and either demonstrates merit and fitness for the Position by successfully completing the probationary period for the Position or remains in the Position for a period of six (6) months of continuous service, whichever is longer, shall become a permanent appointee in the Classified service at the conclusion of that period.

10.08 Promotional Appointments: Police and Fire

- A. If the Appointing Authority authorizes the filling of any Vacancy in a rank above entry level in the Police or Fire Departments, the Commission shall certify to the Appointing Authority the name of the person standing highest on the eligibility list. Upon such certification, the Appointing Authority shall appoint the person Certified within thirty (30) calendar days following certification (ten [10] calendar days in the case of an appointment within the Fire Department). If there is no eligibility list for the rank in which the available Vacancy occurred, the Commission, within sixty (60) calendar days following the occurrence of such Vacancy shall hold a competitive Promotional Examination. After such Examination has been held in the Fire Department, an eligibility list shall be established within twenty (20) calendar days following the final date that the Commission has approved all changes to the rating key or the answer inspection process provided for in these Rules has been completed, whichever occurs last. The candidate receiving the highest grade will be Certified.
- B. If any Promotional appointment provided for in this Section occurs on a date that follows the date that can be calculated based on the maximum time periods provided for Section 10.09 (A), such promoted Employee shall receive any applicable pay increase retroactive to such calculated date on which they should have been promoted.

10.09 Promotional Restrictions and Qualifications – Police and Fire

- A. Vacancies above the rank of Firefighter in the Fire Department, and above the rank of Patrol Officer in the Police Department shall be filled by a competitive Examination for Promotion from among persons holding the next immediate lower rank. No such Position shall be filled by original appointment.
-

- B. Whenever a Vacancy occurs in the promoted rank of Fire Lieutenant, no person shall be eligible to take the Promotional Examination unless they have served at least forty-eight (48) months in the rank of Firefighter, not including their probationary period.

Whenever a Vacancy occurs in any promoted rank in the Police Department, no person shall be promoted to a Position in a higher rank who has not served at least twelve (12) non-probationary months in the next lower rank in accordance with the following:

- C. If there are fewer than two (2) eligible applicants willing to take a Promotional Exam, the Commission may waive the non-probationary time-in-rank requirement.
- D. If, even by waiving the time-in-rank requirement for non-probationary Employees, there are not two (2) eligible applicants willing to take the Promotional Examination, the Commission shall open the Exam to probationary Employees in the lower rank.
- E. If, even by opening the Exam to probationary Employees, there are not two (2) eligible candidates willing to take the Promotional Examination, the Commission shall allow the non-probationary persons in the then next lower rank to compete with those persons in the rank lower than the Position to be filled.
- F. The above process shall be repeated in a downward progression until such time as there are at least two (2) candidates to take the competitive Examination.
- G. If, after exhausting all ranks, two (2) eligible Exam takers cannot be located, then a temporary appointment can be made.
- H. The provisions of this Section shall constitute the qualifications required for all Promotional opportunities provided for herein.

10.10 Promotional Appointments – Non-Safety Classifications

- A. For Promotional appointments in all non-safety classifications, the Commission shall conduct a competitive Promotional Examination process. Such process shall be open to all incumbent non-probationary Employees in the next immediate lower classification number in the Appointing Authority's classification plan. No such Position shall be filled by original appointment with the exception of circumstances defined in paragraph E of this section.
 - B. If there are fewer than two (2) eligible Employees willing to participate in a Promotional Examination process, the Commission may waive any non-probationary time-in-classification requirement.
-

If there are still fewer than two (2) eligible Employees willing to participate in the Promotional Examination process, the Commission shall open the process to non-probationary Employees in the next immediate lower classification.

If there are still fewer than two (2) eligible Employees willing to participate in the Promotional Examination process, the Commission shall open the process to probationary Employees in the next immediate lower classification.

- C. If, even by opening the Exam to probationary Employees, there are not two (2) eligible candidates willing to take the Promotional Examination, the Commission shall allow the non-probationary persons in the next lower classification to compete with those persons in the rank lower than the Position to be filled.
 - D. The above process shall be repeated in a downward progression until such time as there are at least two (2) candidates who have applied to take the competitive Examination.
 - E. If, after exhausting all classification plan levels within the same department, two (2) eligible Exam takers cannot be located, then a temporary appointment can be made or the appointment can be made by original appointment.
-

CHAPTER ELEVEN
TENURE, REDUCTION, SUSPENSION, DEMOTION, AND REMOVAL

11.01 Tenure

- A. The tenure of every Employee in the Classified service of the City holding a Position under ORC Chapter 124, shall be during good behavior and efficient service. Except in case of layoff or abolishment or as otherwise provided by the Ohio Revised Code or these Rules, no such Employee shall be removed, suspended, fined, or reduced in pay or Position, or have longevity reduced or eliminated except for incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the Employee's Appointing Authority, violation of ORC Chapter 124 or the Rules of the Commission, or any other failure of good behavior, or any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony while employed in the civil service. The Appointing Authority may require an Employee who is suspended to report to work to serve the suspension. The denial of a one-time pay supplement or a bonus to any Employee is not a reduction for purposes of this rule. This rule is meant to reflect ORC 124.34 and not to expand or limit the tenure rights conferred by it. Special provisions in ORC 124.40 establish tenure rights and grounds for suspension and/or removal of the Chief of Police and the Chief of Fire and shall apply unless superseded by ordinance.
 - B. A finding of the Ohio Ethics Commission, based upon a preponderance of the evidence that the facts alleged in a complaint under ORC 102.06 constitute a violation of ORC Chapter 102, Section 2921.42 or Section 2921.43 may constitute grounds for dismissal.
 - C. Failure to file a statement or falsely filing a statement required by ORC 102.02 may also constitute grounds for dismissal.
 - D. Conviction of a felony while employed in the civil service is a separate basis for the reduction in pay or Position, suspension, or removal of an Employee even if the Employee has already been removed, suspended, fined, or reduced in pay or Position for the same conduct that is the basis for the felony. If an Employee removed under this Section is reinstated as a result of an appeal of the removal, any felony conviction that occurs during the pendency of the appeal is a basis for further disciplinary action under this Section upon the Employee's reinstatement. A person convicted of a felony within the meaning of ORC 124.34 immediately forfeits their status as a Classified Employee on and after the date of conviction of the felony. If an Employee is removed under ORC 124.34 as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the Employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmance of the removal, unless the conviction for the felony is subsequently reversed or annulled.
-

- E. Any Employee charged with or under indictment for a felony that is not disciplined or discharged by the Appointing Authority may be placed on a leave of absence without pay until resolution of the court proceedings. Any Employee may use accrued but unused vacation, holiday, compensatory, or other paid time off during such leave. An Employee found guilty of a felony shall be summarily discharged. If the charges are reduced to a misdemeanor, or the Employee is found innocent of the charges, the Employee may be subject to discipline, but shall be paid for all lost straight time hours and shall have any vacation, holiday, compensatory, or other paid time off restored to their credit. The Appointing Authority shall continue to pay any insurance premiums normally paid by the Appointing Authority during this or any other unpaid leave of absence. The Employee shall continue to be responsible for the payment of that portion of any insurance premium that they would normally be responsible for.
- F. Absence from duty without leave for any period of time, or the failure to report for duty after leave has expired, shall be considered “neglect of duty” and a cause for removal.

11.02 Procedure in General

- A. In any case of removal (except a probationary removal under Section 10.06 of these Rules), suspension of more than forty (40) hours for an overtime exempt Employee or more than twenty-four (24) hours for an Employee required to be paid overtime, fine of more than forty (40) hours pay for an overtime exempt Employee or more than twenty-four (24) hours pay for an Employee required to be paid overtime, reduction in pay or Position, the Appointing Authority shall serve the affected Employee with a copy of the order of removal, suspension, fine, or reduction in pay or Position. Such order shall state the reason(s) therefore. A copy of the order shall be filed with the Commission as soon as practical, but not more than seven (7) calendar days following the issue date of such order. Probationary Employees who are removed or reduced must be notified prior to the end of their probationary period of the removal or reduction but need not be served an “order.” The notice of removal or reduction shall be filed with the Commission, but the failure to file the notice shall not entitle the Employee to appeal the removal or reduction.

Service on the Employee shall be by hand delivery and/or certified mail. The Appointing Authority may also serve the order by leaving a copy at the Employee’s address of record with an adult residing therein, or by posting such notice on the main door at the Employee’s address of record. If the service by certified mail is returned with an endorsement indicating that the mailed item was refused or unclaimed, then the order may be sent via ordinary mail, evidenced by a certificate of mailing. Such certificate of mailing shall be deemed served on the fifth (5th) calendar day following the date on which the order is mailed.

(See also Rule 11.03 regarding removals, suspensions, fines, or reductions in pay or Position in the Police and Fire Departments.)

- B. Within ten (10) calendar days following the date the Employee is served with the order, the Employee may file a written appeal with the Commission, unless the Employee was removed or reduced in pay or Position during their probationary period. (Disciplinary action based upon conviction of a felony within the meaning of ORC 124.34 or as provided for in these Rules may not be appealed to the Commission.) In the event such a permitted appeal is filed, the Commission shall forthwith notify the Appointing Authority and shall hear, or appoint a trial board to hear, such appeal within thirty (30) calendar days following the filing of the appeal with the Commission. The Commission or trial board may affirm, disaffirm, or modify the judgment of the Appointing Authority. The procedures set forth in Chapter 12 shall apply.
- C. An appeal to the Commission of reclassification or failure to reclassify specified in Rule 4.02 shall be filed within the thirty (30) calendar day period cited therein.
- D. An appeal from layoff or displacement resulting from a layoff shall be filed or postmarked no later than ten (10) calendar days after receipt of the layoff notice or after the date the Employee is displaced
- E. An appeal to the Commission of the grading of a Fire Department Promotional Examination shall be filed as provided in Rule 8.06. The Employee shall offer their argument and evidence as to how their score was incorrectly graded and the Commission shall take any additional testimony or evidence or make any additional inquires it deems necessary to resolve the appeal.
- F. The mere failure of an Employee's Appointing Authority to file a statement with the Commission indicating that the Employee is in the Unclassified Civil Service, or the mere late filing of such a statement, does not prevent the Commission from determining that the Employee is in the Unclassified Civil Service. In determining whether an Employee is in the Unclassified Civil Service, the Commission shall consider the inherent nature of the duties of the Employee's classification during the two-year period immediately preceding the Appointing Authority's appealable action relating to the Employee.

11.03 Procedure – Police and Fire

- A. In the case of removal, suspension, fine, or reduction in pay or Position of any member of the Police or Fire Department, the Appointing Authority shall furnish to such member a copy such order of removal, suspension, fine, or reduction in pay or Position. Such order shall state the reason(s) therefore and shall be filed with the Commission not more than seven (7) calendar days following the issue date of such order.
-

- B. Within ten (10) calendar days following the filing of such order, such member of the department may file a written appeal with the Commission, except for Employees removed or reduced in pay or Position during the probationary period. In the event such an appeal is filed, the Commission shall notify the Appointing Authority within seven (7) calendar days, and shall hear, or appoint a trial board to hear, such appeal within thirty (30) calendar days following the filing date of the appeal with the Commission. The Commission or trial board may affirm, disaffirm, or modify the judgment of the Appointing Authority. The procedures set forth in Chapter 12 shall apply.

11.04 Bargaining Unit Employees

The procedures for discipline or removal of Employees covered by a collective bargaining agreement are governed by those agreements or are governed by these Rules where the agreement is silent. The Commission will not take jurisdiction of appeals over subjects governed by a collective bargaining agreement that provides for binding arbitration of grievances unless the grievant voluntarily requests in writing an appeal before the Commission if and as provided for the grievant's collective bargaining agreement.

11.05 Procedure for Removal, Suspension, Fine, or Reduction in Pay or Position

Removal, suspension, fine, or reduction in pay or Position of an Employee pursuant to ORC 124.34 of an Employee by an Appointing Authority shall not become effective until such Appointing Authority has first:

- A. Held a pre-disciplinary meeting at which the Employee is apprised of the alleged transgressions and of the proposed disciplinary action.
 - B. Served on such Employee a written order of discipline which contains one (1) or more statutory reason(s) for the grounds for discipline with such specifications of facts as shall fairly allow the Employee to defend; and
 - C. Filed a copy of such order with the Commission not less than seven (7) calendar days following the date on which such order was served on the Employee.
-

CHAPTER TWELVE HEARING PROCEDURE

12.01 Scheduling of Hearing and Notification

Upon receipt by the Commission from an Employee in the Classified service of the City of a timely appeal from an order of removal, suspension for more than forty (40) hours for an overtime exempt Employee or more than twenty-four (24) hours for an Employee required to be paid overtime, or fine of more than forty (40) hours pay for an overtime exempt Employee or more than twenty-four (24) hours pay for an Employee required to be paid overtime, or reduction in pay or Position, the Commission shall set a date, time, and place to hear such appeal. Such appeal hearing shall take place no more than thirty (30) calendar days following the receipt of such appeal by the Commission. The Commission shall notify the Appointing Authority, the Employee, and any known representative of the Employee, of the date, time, and place of the hearing. Such notice must be in writing and mailed to the last known post office address of the Employee no less than ten (10) calendar days prior to the hearing date. This time limit may be waived by the Commission at the Employee's written request or approval.

12.02 Amendments to Orders

Amendments to the orders of removal, suspension for more than forty (40) hours for an overtime exempt Employee or more than twenty-four (24) hours for an Employee required to be paid overtime, or fine of more than forty (40) hours pay for an overtime exempt Employee or more than twenty-four (24) hours pay for an Employee required to be paid overtime, or reduction in pay or Position, may be made by the Appointing Authority at any time, provided the Employee and their representative, if any, receive copies of the amended order prior to ten (10) calendar days before the time and date set for the hearing as provided herein. The Appointing Authority may completely rescind the order on or before the effective date of the order. If the Appointing Authority does so, the rescission will not bar the filing of another order, even if based on the same allegations.

Non-material changes, amendments or supplements to the charges and specifications may be made at any time prior to the ultimate determination by the Commission.

12.03 Hearing Procedure

Hearings before the Commission shall be public with the exception of hearings concerning matters not subject to any effective open meetings laws. In such cases, the Commission may order the hearings closed to the general public, unless the Employee requests that the hearing be public. By agreement of the parties, or if the discussion of any issue or item would violate any person's right to privacy, other than an Employee's requesting a public hearing, the Commission may conduct an *in-camera* review of that matter. In the hearing of such appeals, the order of procedure shall be as follows:

1. In disciplinary cases, the Appointing Authority taking action affecting the Employee shall present all witnesses, testimony, and other evidence in support of the disciplinary order.
2. The Employee and/or their designated representative shall then produce all witnesses, testimony, and other evidence as they may wish to present to refute or explain such charges.
3. The Appointing Authority and/or the Employee may offer additional evidence in rebuttal. The Commission may, at its discretion, hear final arguments.
4. Either party may call as a witness the other party, or any agents, officers, or Employees for the purpose of cross examination.
5. In a case where the Appointing Authority contests that it took the appealable action alleged by the Employee, the Employee must first present evidence that the action occurred and is the proper subject of an appeal. The Appointing Authority may refute the evidence presented, and the Employee may then offer rebuttal.
6. In non-disciplinary cases, the Commission may, in its discretion, determine the order of presentation of evidence.
7. In any type of case, the Commission may, in its discretion, issue prehearing orders, request a party to answer written questions to assist the Commission in determining its jurisdiction and the nature of the appeal, hear arguments, and request submission of briefs, memoranda, or other written materials.

12.04 Rules of Evidence and Representation by Counsel

The Rules of Evidence prevailing in civil actions in the Ohio courts of general jurisdiction are to be used as evidentiary guidelines in hearings before the Commission. The Commission may permit the introduction of evidence otherwise excludable under such rules where a foundation, establishing the reliability and credibility of the evidence, its relevance and materiality, and its necessity, has been established. Any or all items maintained in the personnel file of the subject Employee may be entered into evidence by either party, unless either party can demonstrate by a preponderance of evidence that any specific item(s) should be excluded in order to conduct a fair hearing. Written medical evidence that was placed in the subject Employee's personnel file after the date of the alleged misconduct may not be admitted at the hearing without prior consent of the other party. The report of the hearing officer for any pre-disciplinary hearing concerning the allegations against the subject Employee may be entered into the hearing as evidence by either party, but are not conclusively binding on the Commission, the hearing officer, or a panel of hearing officers.

The parties may be represented by counsel or another representative. The Commission may choose to be represented by independent legal counsel. The cost of any representation of the

Commission will be paid by the Appointing Authority of the Employee who is the subject of the hearing.

12.05 Burden of Proof

The Appointing Authority must prove, by a preponderance of evidence, the factual allegations contained in the disciplinary order. Failure of either or both parties to prove or disprove each of the allegations contained in the order does not require disaffirmance or annulment of the Appointing Authority's order by the Commission. The Employee shall prove, by a preponderance of the evidence, that the Appointing Authority took appealable action (e.g., that the Employee was removed, suspended, fined, or reduced in pay or Position).

12.06 Hearsay

The Commission may permit the introduction by either party of evidence otherwise excludable as hearsay provided there is established some foundation as to the reliability and necessity of such hearsay evidence.

12.07 Discovery

The Commission may allow either party to conduct discovery upon notice to the Commission and to the other party.

12.08 Subpoenas

Either party may request that a subpoena be issued by the Commission. Such requests shall be submitted no later than seven (7) calendar days prior to the hearing. Such request must be timely received by the Secretary and accompanied by a completed subpoena form. It is the responsibility of the requesting party to serve the subpoena and provide proof of such service.

12.09 Witnesses

All witnesses must testify under oath or affirmation. Should a witness refuse to answer a question ruled proper at a hearing, or disobey a subpoena, the Commission may institute contempt proceedings. Employees of an Appointing Authority who are called as witnesses may be subject to appropriate disciplinary action for failing or refusing to timely and truthfully answer any question. The Commission may call witnesses other than those requested by the parties.

12.10 Motions

- A. All motions shall concisely state, with particularity, both relief sought by the moving party and the basis for granting such relief.
-

1. All motions, together with supporting documentation, if any, shall be served on the opposing party.
 2. Motions to dismiss an appeal shall be supported by affidavits, made on personal knowledge, setting forth facts as would be admissible in evidence. Affidavits shall show affirmatively that the affiant is competent to testify to the matter stated therein. Sworn or certified copies of all documents referred to in an affidavit shall be attached thereto. When a motion is made and supported as provided in this rule, an adverse party may not rest upon mere allegations or denials. An adverse party's response, by affidavit or otherwise, shall set forth specific facts showing there is a genuine issue in dispute.
- B. Procedural motions, not determinative of the final outcome of the appeal, may be acted upon by the Commission at any time following receipt without awaiting a response from the opposing party. The party adversely affected by such action of the Commission may move for appropriate relief.

12.11 Record of Hearings

The Commission may record hearings either by the use of a stenographer, court reporter, magnetic tape, or other recording technology. If a transcript is prepared of any hearing, either party may request a copy of the transcript. Any party requesting a copy of the transcript shall pay fifty percent (50%) of the cost of creating and producing such transcript.

12.12 Findings of Fact and Conclusions of Law

Following the conclusion of the hearing or the submission of final briefs, the Commission shall issue a written report including the findings of fact and conclusions of law. A copy of such report shall be forwarded to the Appointing Authority, the subject Employee, and any designated representative of either party. Such document shall be signed by no less than two (2) members of the Commission. The findings of fact and conclusions of law shall be journalized by the Commission and a copy of the order placed in the Commission's files.

12.13 Resignation before Final Action

The acceptance by the Appointing Authority of the resignation of a terminated Employee *before the final action by the Commission* will be considered a withdrawal of the charges. Notice of such resignation shall be submitted immediately to the Commission. The separation of the Employee thus resigning shall be entered upon the records of the Commission and the proceedings dismissed without judgment.

12.14 Last Chance Agreement

In an appeal of a removal order based upon a violation of a last chance agreement, the Commission may only determine if the Employee violated the last chance agreement and

thus affirm or disaffirm the judgment of the Appointing Authority. Any Hearing Officer assigned by the Commission shall conduct the hearing and make their report accordingly.

12.15 Trial Board or Hearing Officer

The Commission may appoint a trial board to hear an appeal as provided in Rule 11.02(B). When the Commission exercises its discretion to do so, the trial board shall follow the Rules that govern the actions of the Commission.

The Commission may alternatively appoint a hearing officer to hear an appeal as provided in Rule 11.02 (B). When the Commission exercises its discretion to appoint a hearing officer, the following procedure shall apply before the Commission takes final action on the appeal.

- A. The hearing officer shall submit a report to the Commission in each appeal considered by the hearing officer on behalf of the Commission. Such report shall be submitted to the Commission within thirty (30) calendar days following the conclusion of the hearing.
 - B. Within fourteen (14) calendar days following receipt by the Commission of the hearing officer's report, the Commission shall send a copy of such report to the parties by certified mail. Written objections to hearing officer's report must be filed with the Commission no more than fourteen (14) calendar days following the mailing date of the hearing officer's report.
 - 1. If any mailed document provided for in this Section is refused, unclaimed, or sent to the wrong address due to a party's failure to notify the Commission of a change of address, such document shall be deemed received by the party five (5) calendar days following such mailing. A certificate of mailing shall be considered sufficient proof of mailing.
 - 2. The Commission may extend the time to file objections or responses to the report and recommendation.
 - 3. Objections to report of the hearing officer must include a brief statement of each point being objected to, and a concise statement of each area of disagreement. All supporting arguments and documents must be attached. Objections or responses by either party must be limited to evidence presented at the hearing. Objections or responses to objections containing arguments based on evidence not already in the record may be stricken.
 - 4. At the complete discretion of the Commission, any document provided for in this Section that is submitted to the Commission without a certificate of service may not be considered by the Commission.
 - C. The Commission may accept, reject, or modify, in whole or in part, any report and recommendation of the hearing officer. The Commission may also receive additional
-

evidence, hear arguments, or remand an appeal to a hearing officer for further consideration or hearing.

- D. Upon conclusion of all processes provided for in the above provisions of this Section and any other applicable provisions of these Rules, the Commission shall issue findings of fact and conclusions of law. Such document shall be signed by no less than two (2) members of the Commission. The findings of fact and conclusions of law shall be journalized by the Commission and a copy of the order placed in the Commission's files.
- E. Agreement of not less than two (2) Commission members shall be required to reject or modify any report and recommendation of the hearing officer. If no such agreement is reached, the report and recommendation of the hearing officer shall be deemed affirmed as the findings of fact and conclusions of law of the Commission but shall not have any precedential value.

12.16 Distribution of the Findings of Fact and Conclusions of Law

Copies of the finding of fact and conclusions of law of the Commission shall be sent by certified mail to the address on record of the affected Employee and by regular mail to the other parties and their representatives.

- A. Copies sent to the affected Employee by certified mail of the findings of fact and conclusions of law that are returned to the Commission, or unclaimed or refused by the affected Employee shall be reissued by regular United States mail by certificate of delivery service. Delivery of such findings of fact in conclusions of law shall be deemed as proper service to the affected Employee on the fifth (5th) calendar day following the date of mailing.
- 2. Copies of the findings of fact and conclusions of law that are returned to the Commission as undeliverable shall be placed unopened in the Commission's files and the opposing party shall be notified.

12.17 Filing Appeals from Decisions of the Commission

If the Ohio Revised Code requires the filing of an appeal with the Commission to perfect an appeal from a decision of the Commission, the person or party appealing must file that appeal with the Secretary.

CHAPTER THIRTEEN LAYOFFS AND TRANSFERS

13.01 Layoffs or Reductions in General

When any permanent office or Position in the Classified service, except in the Police and Fire Departments, is abolished or made unnecessary, or the person holding such office or Position is laid off, the procedure outlined in ORC Sections 124.321 through 124.328 shall be followed.

13.02 Retention Points

- A. An Employee's total retention points shall be the sum of the base points plus the retention points assigned for continuous service.
- B. The Appointing Authority shall compute the total retention points for each Employee in the classifications affected by a layoff or any Position abolishment, including the classifications in which displacement may occur.
- C. The Appointing Authority shall submit the required information to the Commission for verification. Notification by Appointing Authorities to affected Employees shall not occur prior to the Commission's verification of retention points.
- D. Employees shall be assigned a base of one hundred (100) retention points. Computation of retention points for continuous full-time service shall be made by crediting each Employee with one (1) retention point for each bi-weekly pay period of continuous service. Retention points for continuous service for other than full-time service shall be calculated on the basis of one-half (.50) point for each bi-weekly pay period of continuous service.

13.03 Layoffs or Reductions – Police and Fire

Layoffs or reductions in the Police or Fire Departments for causes other than those outlined in ORC Section 124.34 shall be made in accordance with the provisions of ORC Section 124.37 and the applicable provisions of any collective bargaining agreement(s) in effect at the time of such layoff or reduction. If the collective bargaining agreement is silent, applicable provisions of ORC 124.321 et seq. shall also apply.

13.04 Temporary Transfers

- A. An Employee holding a Position in the Classified Civil Service may be temporarily transferred from their original Position to a similar Position, for a period not to exceed thirty (30) calendar days, or, if agreed to in advance by the Appointing Authority and the Employee, for a longer period not to exceed ninety (90) calendar days.
-

- B. No Employee shall be temporarily transferred more than once during any six (6) month period without the approval of the Commission.
- C. If the Commission approves a second temporary transfer within any six (6) month period, and the Employee objects to the transfer because the temporary transfer is not necessary for the efficient operation of the office, the Employee may appeal the second temporary transfer to the Commission. If the Commission finds that the appeal of the Employee is upheld, the Commission shall not approve the second temporary transfer. If the Commission denies the appeal, the Commission shall approve the second temporary transfer.

13.05 Permanent Transfers

- A. Subject to the other provisions of these Rules, the Appointing Authority may, with the approval of the Commission and the written consent of the Employee being transferred, permanently transfer an Employee in the Classified service from their current Position to a similar Position in another office, department, or division of the same Appointing Authority. No Employee shall be transferred to a Position under another Appointing Authority, unless both Appointing Authorities agree in writing and such agreement is approved by the Commission prior to such transfer occurring. Furthermore, no transfer shall be made:
 - 1. from an office or Position in one class to an office or Position in a different class; or
 - 2. to an office or Position for original entrance to which there is required by these Rules or by ORC 124.01 to 124.64, an examination involving essential tests or qualifications; or
 - 3. to an office or Position carrying a salary different from that of the office or Position currently held by the person proposed to be transferred.
 - B. For the purposes of this Section, a "permanent transfer" is any transfer in excess of thirty (30) calendar days unless the Employee and the Appointing Authority have agreed in writing to a temporary transfer of a longer period, not to exceed ninety (90) calendar days.
 - C. The Appointing Authority requesting the permanent transfer shall notify the affected Employee and the Commission in writing of the request to transfer.
 - D. If the Commission determines that the transfer is not necessary for the efficient operation of the office, department, or division, the Commission shall not approve the transfer and shall notify the Appointing Authority and the Employee in writing that the transfer is not approved. If the Commission determines that the transfer is necessary for the efficient operation of the office, department, or division, the
-

Commission shall notify in writing the Appointing Authority and the affected Employee involved that the transfer is approved.

- E. Although no time limits are provided for in the Section, Appointing Authorities are expected to process all requests and documents in a timely manner. Failure do so could result in a denial or modification by the Commission of any transfer.
-

CHAPTER FOURTEEN REINSTATEMENTS AND LEAVES OF ABSENCES

14.01 Leaves of Absence

The Appointing Authority may, with the consent of the Commission, grant a leave of absence to an Employee in the Classified service for a period not to exceed six (6) months. Upon the expiration of such leave of absence, such Employee shall be reinstated. Any such leave of absence requested by the Employee in writing and granted by the Appointing Authority shall be referred to the Commission promptly for review, and to enable the Commission to protect the Civil Service data of such absent Employee.

Any seniority credit provided for in these Rules shall accumulate only if the leave of absence is related to previously approved education or service.

Notwithstanding the other provisions of this Chapter, if an Employee meets the requirements for preserving or accumulating seniority or other rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA), or a comparable Ohio statute, the Commission will honor the requirements of USERRA or the Ohio statute when applying these Rules.

14.02 Reinstatements in General

Any person holding a Position under the Classified service who has been separated from the service without delinquency or misconduct on their part, and other than for disability, may, upon recommendation of the Appointing Authority and with the consent of the Commission, be reinstated within one (1) year from the date of such separation to a Vacancy in the same office or Position in the same department. Such reinstatement may be predicated upon the person passing a physical examination made by a licensed physician and showing the person can perform the essential functions of the job.

If such separation is due to injury or physical or psychiatric disability, the person shall be reinstated in the same office held or in a similar Position to that held at the time of separation, within sixty (60) calendar days after written application for reinstatement if (a) the person passes a physical or psychiatric examination made by a licensed physician, a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife showing that the person has recovered sufficiently from the injury or physical or psychiatric disability to perform the essential functions of the Position to which they would be reinstated and (b) if the application for reinstatement is filed within two (2) years from the date of separation, and (c) if the application is not filed after the date of service eligibility retirement. The physician, physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife shall be designated by the Appointing Authority and shall complete any written documentation of the physical examination.

14.03 Reinstatement/Disability Retirement – Police and Fire

- A. Any person holding an office or Position under the Classified service in the Police Department or Fire Department who is separated therefrom due to injury or physical disability incurred in the performance of duty shall be reinstated immediately, or one suffering injury or physical disability incurred other than in the performance of duty may be reinstated, upon filing with the Chief of the Police Department or the Chief of the Fire Department, respectively, a written application for reinstatement, to the office or Position held at the time of such separation, after passing a physical examination showing that the person has recovered sufficiently from the injury or other physical disability to perform the essential functions of the Position to which they would be reinstated. The physical examination shall be made by a licensed physician, a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife within two (2) weeks after application for reinstatement has been made, provided such application for reinstatement is filed within five (5) years from the date of separation from the department, and further provided that such application shall not be filed after the date of service eligibility retirement. The physician, physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife shall be designated by the Police and Fire Pension Board and shall complete any written documentation of the physical examination.

 - B. Any person who holds a Position under the Classified service in the Police or Fire Department, who resigns therefrom, may be reinstated to the rank of patrol officer or firefighter upon filing a written application for reinstatement with the Commission within one (1) year from the date of resignation. A copy of the application shall be filed with the Chief of the Department. The person shall pass a physical examination, conducted by a licensed physician that certifies the person is physically fit to perform the essential functions of the classification of patrol officer or fire fighter (whichever is applicable). The Chief shall notify the Appointing Authority, who shall decide whether the Employee will be reinstated. Any person reinstated pursuant to the authority of this Paragraph (B) shall not receive credit for seniority earned prior to resignation and reinstatement and shall not be entitled to reinstatement to a Position above the rank of patrol officer or fire fighter, regardless of the Position the person may have held at the time of the resignation.
-

CHAPTER FIFTEEN PROHIBITIONS

15.01 Political Activity Prohibited

- A. No Employee in the Classified service of the City shall engage in partisan political activity and shall not to that extent:
 - 1. directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution to any political party or for any candidate for public office;
 - 2. nor shall any such person solicit, directly or indirectly, orally or by letter, or be in any manner concerned in soliciting any such assessment, contribution, or payment from any Employee in such Classified service;
 - 3. nor shall any such Employee be an officer in a political organization or take part in politics other than to vote as they please, and to express freely their political opinions.

- B. This provision shall not prohibit Employees of the City from making personal political contributions or from serving as a precinct election official under ORC Section 3501.22.

15.02 Fraud in Examinations Prohibited

Fraud in Examinations is prohibited. In accordance with ORC Section 124.58, no person, applicant, candidate, or Employee shall:

- A. willfully or corruptly by himself or herself or in cooperation with one (1) or more persons defeat, deceive, or obstruct any person with respect to their right of examination, appointment, or employment arising under civil service laws, these Rules, or any rules and regulations prescribed pursuant thereto; or
 - B. willfully or corruptly, falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or Certified pursuant to the provisions of the civil service law, or aid in so doing; or,
 - C. willfully or corruptly make any false representations concerning the results of such examinations or concerning any person examined; or
 - D. willfully or corruptly furnish to any person any special or confidential information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered, or Certified, or to be appointed, employed, or promoted; or
-

- E. willfully impersonate any person or permit or aid in any manner any other person to personate them in connection with any examination, registration, or appointment or Application or request to be examined, registered, or appointed; or
- F. furnish any false information about himself or herself or any other person, in connection with any examination, registration, or appointment or Application or request to be examined, registered, or appointed; or
- G. make known, or assist in making known to any applicant for examination, any questions to be asked on such examination; or
- H. assist any applicant in improving their exam score when taking an examination; or
- I. personally solicit a favor from any member of the Commission, Employee of the Appointing Authority, or solicit any other person to do so their; or
- J. when taking an examination, to use any sources of information not already provided and distributed or otherwise allowed by the exam administrators. Such offense shall be deemed cause to have the examination documents taken up and scored with a "0" marking.

15.03 Payment for Appointment or Promotion Prohibited

No applicant for appointment or Promotion in the Classified Civil Service shall, directly or indirectly, pay or promise to pay any money or other valuable thing, nor shall they ask or receive any recommendation or assistance from any person, upon the consideration of any political service to be rendered, for or on account of their appointment or Promotion, or proposed appointment or Promotion.

15.04 Abuse of Official Power for Political Reasons Prohibited

No Employee or elected or appointed official of the City shall appoint, promote, reduce, suspend, lay off, discharge, fine or in any manner change the official rank or compensation of any Employee in the Classified service, or promise or threaten to do so, or harass, or discipline, or coerce any such Employee, for giving, withholding, or refusing support for or to any party or candidate.

15.05 Abuse of Political Influence

No person who holds any public office, or who has been nominated for, or who seeks nomination or appointment to any public office, shall corruptly use or promise to use, either directly or indirectly, any official authority or influence in order to secure or to aid any person in securing for himself or herself, or for another person, any office or employment in the Classified service of the City or any Promotion or increase in salary therein, as a reward for political influence or service. No person, by means of threats or coercion, shall induce or

seek to induce anyone in the said Classified service to resign their Position, or to waive their right to certification, appointment, or Promotion.

15.06 False Statements

Fraudulent conduct or false statements by an applicant, candidate, or Employee, or by others with their connivance, in any Application or examination process, shall be deemed cause for exclusion of said applicant from any examination process, or for removal of their name from an eligibility list, or for discharge from employment after appointment.

15.07 Violations

After a Rule hereunder has been established and published by the Commission, no person shall make an appointment or select a person for employment contrary to such Rule, or willfully refuse or neglect to comply with or to conform to the sections of these Rules, and, to the extent that the same are applicable, ORC Chapter 124, or willfully violate any section of the same. If any person who is convicted of a violation described herein holds any public office or place of public employment, such Position shall be rendered vacant by reason of said conviction.

15.08 Prosecution

Prosecutions for violations under these Rules and/or ORC Chapter 124 in relation to the Civil Service of the City or by any Employee of the Appointing Authority, shall be instituted by the Commission through the Law Director of the City, or by the Commission through special counsel.
