

CITY OF BEXLEY

MUNICIPAL CIVIL SERVICE COMMISSION

CIVIL SERVICE RULES

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CHAPTER 1 POWERS AND DUTIES

1-1 Procedure for Adoption, Amendment or Rescission of Rules

The adoption, amendment or rescission of any rule shall comply with the following procedures:

A) Public Notice. Public notice as to the adoption, amendment, or rescission of rules shall be given in accordance with the following procedure:

1) Any public notice shall include:

(a) A statement of intention to consider the adoption, amendment or rescission of such rule;

(b) A general statement of the subject matter to which the proposed rule relates; and

(c) The date, time and place of a public hearing to consider the adoption, amendment or rescission of the rule, which shall not be earlier than ten days after the public notice first appears in print.

2) Such public notice shall be posted on the City's web-page at least ten (10) days prior to such hearing.

3) Such public notice shall be posted in a conspicuous place in the City offices for at least ten (10) days prior to such hearing.

B) Distribution of proposed rule changes.

1) A copy of the full text of any proposed rule, amendment in any existing rule, or rule to be rescinded, accompanied by notice of public hearing, shall be submitted to the Director of Public Service, the Director of Public Safety, and the Mayor, at least ten (10) days prior to the public hearing.

1-2 Special Examiners Outside Official Service of the City

The Commission may designate special examiners for positions requiring peculiar and exceptional qualifications of scientific, managerial, educational or professional character, and where persons qualified to prepare such examinations are not available in the official service of the City, or cannot, as a matter of policy, be used, the Commission may designate persons outside the official service of the city to prepare and/or conduct and/or grade such examinations and shall fix the compensation, if any, to be paid such special examiners. Such compensation must be approved by City Ordinance prior to the commencement of work by the special examiners.

1-3 Examiners or Board of Examiners

The Commission may appoint for any department an examiner or board of examiners for the purpose of conducting examinations or audits in accordance with Chapter 3 or 8 of these rules. The examinations administered by such examiner or board of examiners shall be prescribed by the Civil Service Commission and administered in accordance with its instructions. The records of such examinations shall be subject to audit by the Commission. The examiner or board of examiners appointed under this rule may be granted authority by the Commission, subject to review and audit, to maintain eligible lists and make certifications for appointment therefrom in accordance with the provisions of civil service law and these rules.

1-4 Meetings

The Commission shall hold regular meetings on the second Wednesday of January, April, July, and October.

CHAPTER 2 DEFINITIONS

2-1

A) Unless otherwise indicated in these rules, the following definitions apply:

- 1) **Appointing authority** means the officer, Commission, Board or body having the power of appointment to, or removal from, positions in any office, department, commission, board or institution.
- 2) **Appointment Categories** means the following: part-time temporary, full-time temporary, intermittent, part-time seasonal, full-time seasonal, part-time permanent and full-time permanent.
- 3) **Break in Service** means an employee has had a separation from service which includes, but is not limited to, a resignation, removal, failure to return from an authorized leave of absence or disability separation. Any authorized leave of absence from which the employee returns in a timely fashion shall not constitute a break in service. An employee who separates from service for more than thirty (30) days is deemed to have a break in service. An employee who separates and is later reinstated from the separation shall not be deemed to have a break in service, except that the time the employee has separated shall not be counted towards for purposes of continuous service. Time spent on vacation, sick leave, disability leave and other time an employee is on active pay status shall not be construed to be a break in service.

- 4) **Certification** means the process of providing to an appointing authority the names on an eligible list or layoff list.
- 5) **Certified Eligible List** means a list issued to an appointing authority, of individuals available for employment from an eligible list or layoff list.
- 6) **Classification** means a group of positions sufficiently similar in respect to duties, responsibilities, authority, and qualifications so that the same descriptive title may be used for each, the same pay range assigned, and the same examinations conducted.
- 7) **Continuous Service** means the uninterrupted service of an employee with the City when no break in service occurs.
- 8) **Days** means calendar days unless specified otherwise.
- 9) **Demotion** means the act of placing, at the request of the appointing authority or the employee, an individual in a position, the classification for which carries a lower salary range than that previously held.
- 10) **Department** means a City organizational unit directed and controlled by an appointing authority and charged with a specific public service function.
- 11) **Eligible List** means a list of names and scores of individuals who have taken an examination for a specific classification.
- 12) **Emergency Appointment** means an appointment to a position to meet an emergency situation in the unclassified service and limited to a maximum of thirty (30) days.
- 13) **Interim Appointee** means an employee hired to fill a vacancy created by the sickness or disability of a regular employee for the period of the sickness or disability.
- 14) **Intermittent Appointment** means an appointment where an employee works on an irregular schedule which is determined by the fluctuating demands of the work and is not predictable.
- 15) **Laid Off Employee** means an employee terminated by the appointing authority from a position as a result of the application of the "order of layoff." "Laid off employee" also means an employee not working as a result of layoff, abolishment or displacement.
- 16) **Open Examination** means an examination open to anyone, whether or not already employed in the City, who meets the qualifications established for a given classification or position.

- 17) **Part-time Employee** means an employee whose regular hours of duty are less than the normal established work week for a particular department.
- 18) **Pay Period** means the period of time during which the payroll is accumulated, as determined by the appointing authority.
- 19) **Pay Range** means the divisions of a salary schedule to which classifications and positions are assigned.
- 20) **Position** means the group of job duties intended to be performed by an individual as assigned by the appointing authority.
- 21) **Probationary Period** means the period at the beginning of an original appointment or immediately following a promotion, which constitutes a trial or testing period for the employee, and during which the employee may be terminated (in case of original appointment) or reduced (in case of promotion).
- 22) **Promotion** means the act of placing an employee in a position, the classification for which carries a higher salary range than that previously held.
- 23) **Promotional Examination** means an examination open only to persons already employed in a City agency or department, in specified classifications or meeting specific qualifications, given for the purpose of determining eligibility for promotion to a higher class.
- 24) **Reinstatement** means the act of returning a person to City service, following a period of separation or a leave of absence, retaining seniority and status. For purposes of layoff, reinstatement means the act of selecting from the appointing authority's layoff list individuals to return to active service with the same appointing authority in the same classification series of layoff.
- 25) **Removal** means the termination of an employee's employment for the reasons outlined in Chapter 29 of these rules.
- 26) **Resignation** means the voluntary separation from City service by the employee.
- 27) **Seasonal Appointment** means an appointment where an employee works a certain regular season or period of the year performing some work or activity limited to that season or period of the year. This rule does not apply to "summer only" maintenance employees including student help.

- 28) **Suspension** means the relieving of an employee from duty without pay, as a disciplinary measure aimed at improving the employee's conduct.
- 29) **Temporary Appointment** means an appointment for a limited period, fixed by the appointing authority not to exceed one hundred twenty (120) days. A temporary appointment may exceed one hundred twenty (120) days if made necessary due to sickness, disability or other approved leave of absence of a regular employee, provided such appointment may not exceed the period of such absence.
- 30) **Unclassified Service** means all offices and positions which are exempt from all examinations and which provide no tenure under the law. Appointment to a position in the unclassified service may be made at the discretion of the appointing authority and the incumbent may be removed, suspended or reduced from the position at the pleasure of the appointing authority.
- B) The Civil Service Commission may issue directives, memoranda or internal management rules setting forth procedures not inconsistent with Chapter 124 of the Ohio Revised Code, relating to the conduct of the business of the Civil Service Commission.

CHAPTER 3 JURISDICTION AND APPEALS

3-1 Jurisdiction

- A) The jurisdiction of the Municipal Civil Service Commission is derived from Article XII of the Charter of the City of Bexley, Ohio.
- B) Unless exempted from the classified service by statute, ordinance, municipal charter provisions or these rules, all positions in the service of the City or the City Health District are in the classified service. The Commission has jurisdiction to determine whether any position is unclassified and therefore, exempt from the provisions of these rules.

3-2 Appeals

The Commission shall hear appeals, as provided by law, of employees in the classified service from final decisions of appointing authorities relative to reduction in pay or position, involuntary disability separation, job abolishments, layoff, demotion, suspension or discharge. The Commission may affirm, disaffirm or modify the decisions of the appointing authorities, and its decision is final. The Commission shall not be deprived of jurisdiction to hear an appeal due to the failure of an appointing authority to file its decision

with the Commission. Any final decision of the appointing authority not filed in the manner provided in these rules shall be disaffirmed.

3-3 Authority

The Municipal Civil Service Commission has the authority to exercise all of the powers and perform all of the duties with respect to the Civil Service of the City and City Health District as described in Chapter 124 of the Ohio Revised Code and conferred upon the Director of the Ohio Department of Administrative Services and the State Personnel Board of Review with respect to the civil service of the City; and all authority granted to said Director and/or with respect to the service under their jurisdiction, except as otherwise provided by Chapter 124 of the Ohio Revised Code or the City Charter.

3-4 Investigations

When the Municipal Civil Service Commission has reason to believe that any officer, board, commission, head of department or person having the power of appointment, layoff, suspension or removal, has abused such power by making an appointment, layoff, reduction, suspension or removal of an employee under his or their jurisdiction in violation of Chapter 124 of the Ohio Revised Code, the Commission shall make an investigation, and if it finds that a violation of that chapter, or the intent and spirit of that chapter has occurred, the Commission shall make a report to the Mayor or other chief appointing authority, who may remove forthwith such guilty officer, board, commission, head of department or person. The officer or employee shall first be given an opportunity to be publicly heard in person or by counsel in his own defense. The action of removal by the Mayor or other appointing authority is final, except as otherwise provided in these rules.

CHAPTER 4 CLASSIFIED AND UNCLASSIFIED SERVICE

4-1 Exemptions from the Classified Service

- A) Article XII, Section 51 of the Charter of the City of Bexley, Ohio identifies the City officers and employees who are in the unclassified civil service, including the following:
- 1) All officers elected under this Charter;
 - 2) All officers and members of boards or commissions whose appointment is subject to concurrence by Council or who are appointed by Council;
 - 3) One secretary or clerk for the Mayor, assistant or clerk for the Auditor and for each board or commission appointed hereunder;
 - 4) The Chief of Police;

- 5) The heads of any departments or sub-departments, the supervisors or assistant supervisors of any functions, or such other supervisory or management personnel that may be created by Council under this Charter;
 - 6) All employees whose service is temporary or part time;
 - 7) All unskilled labor positions designated as such by ordinance of City Council.
- B) All positions set forth in O.R.C. section 124.11 or other provisions of the Ohio Revised Code designating a position as unclassified.
 - C) All positions designated as unclassified by ordinance of Bexley City Council.

4-2 Positions in the Classified Service

The classified service shall comprise all positions not specifically designated as unclassified under Article XII, Section 51 of the Charter of the City of Bexley, Ohio, the Ohio Revised Code or City ordinance. In the classified service there shall be two classes to be known as the competitive and the non-competitive classes. The competitive class shall include all positions and employments for which it is practicable to determine their merit and fitness of applicants by competitive examination, and the non-competitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character.

4-3 Change from Classified to Unclassified Service

- A) Whenever a position is for any reason changed from the classified to the unclassified service, if the position was previously classified, and if, as a result of such change an incumbent employee is displaced, such employee shall be treated as if his position were abolished, and the layoff rules and regulations shall be followed as directed in Chapter 24 of these rules.
- B) Employees may be allowed to remain in an unclassified position, even though they continue to be a classified employee, at the discretion of the appointing authority.

**CHAPTER 5
PROCEDURES AND REQUIREMENTS FOR HEARINGS BEFORE THE CIVIL
SERVICE COMMISSION**

5-1 Requirements for “Chapter 29 Orders”

- A) “Chapter 29 Orders” may be affirmed only if the following four criteria are satisfied:

- 1) Copies of the Order filed with the Civil Service Commission and furnished to the affected employee shall each bear the signature of the appointing authority. If the appointing authority is a public body, a copy of the resolution adopting the Order may be attached to each copy of the Order in lieu of signatures.
 - 2) A copy of the Order shall be filed with the Civil Service Commission no more than ten (10) calendar days after a copy of the Order is furnished to the affected employee.
 - 3) A copy of the Order shall be furnished to the affected employee prior to or on the effective date of the Order.
 - 4) The Order shall show on its face a list of particulars which establishes a basis for the Order.
- B) If an appointing authority fails to substantially comply with any of the requirements in paragraph (A) of this rule in an action governed by Chapter 29 of these rules, that action may be disaffirmed on timely appeal. Disaffirmance of an Order under this rule shall not be a bar to refile a Chapter 29 Order, based upon the same incidents, which complies with this rule.

5-2 Furnishing of Chapter 29 Orders

- A) A Chapter 29 Order is furnished to the affected employee when it is personally transmitted to the employee when it is mailed to the employee by certified mail, return receipt requested or when it is personally served to a person at least eighteen (18) years of age at his last known address.
- B) If a Chapter 29 Order is furnished by certified mail, the appointing authority must use its knowledge of the affected employee's address.
- 1) An appointing authority knows an employee's address when an address appears in any employment record, including any Form W-4 maintained by the appointing authority.
 - 2) If an appointing authority's records contain more than one address for an employee, the most recent address shall be used.

5-3 Amendment or Withdrawal of Chapter 29 Orders

- A) An appointing authority may, at any time prior to the first record hearing, delete any material contained in a Chapter 29 Order. After the first record hearing has begun, the Commission may permit the deletion of material from a Chapter 29 Order upon oral or written motion.

- B) Material not originally present in a Chapter 29 Order may not be added to that Order after it is furnished to the affected employee or filed with the Commission, whichever is earlier.
 - 1) Such material may be made the basis of a subsequent Order.
 - 2) This rule does not forbid correction of clerical errors.
- C) Upon notice to the affected employee, an appointing authority may withdraw a Chapter 29 Order at any time and prior to the first record hearing.

5-4 Appointing Authority's Burden of Proof

The appointing authority shall prove, by a preponderance of the evidence, the factual allegations in a disciplinary order. Failure to prove each of the allegations contained in an order does not, as a matter of law, require disaffirmance of an order.

5-5 Appeals and Appellants

A) Contents of Appeals.

- 1) All appeals to the Civil Service Commission shall be written and shall include the following information:
 - (a) The appellant's name and address.
 - (b) The name of the appointing authority.
 - 2) Failure to supply the information required by paragraph (1) of this rule may result in dismissal of the appeal.
 - 3) Appellants shall notify the Commission, in writing, of any change of address during the pendency of the appeal.
- B) Removals, Reductions and Suspensions with No Order. If a reduction, removal or suspension is alleged and no Chapter 29 Order has been filed with the Commission, the affected employee shall prove, by a preponderance, that the reduction, removal or suspension has occurred.

5-6 Job Abolishments, Layoffs, Reclassifications, Reassignments and Disability Leaves

A) Job Abolishments.

- 1) Job abolishments shall be disaffirmed if the action is taken in bad faith.

- 2) Certification of lack of funds or lack of work is not required. Proof of a reason for the abolishment is required.
 - 3) When a position is abolished, displacement rights, as set forth in Section 24.09 of these rules shall be afforded the employee incumbent in the abolished position.
- B) Layoffs. The layoff rules promulgated by the Commission shall be followed and procedural compliance proved upon proper appeal.
- C) Involuntary Disability Separations. Involuntary disability separations may be affirmed only if:
- 1) the procedure set forth in the appropriate rules for instituting an involuntary disability separation have been strictly followed; and
 - 2) the Order, as required by Chapter 29 of these rules, is filed by the Commission.

5-7 General Procedure

- A) Denomination of Parties. The party filing an appeal is denominated "Appellant." All other parties are denominated "Appellee."
- B) Scheduling of Hearings. The Commission shall, within ten (10) calendar days of receipt of an appeal, notify the appointing authority and the appellant that such appeal has been received, and shall forthwith hear, or appoint a trial board, referee or examiner to hear, such appeal within thirty (30) days from and after its filing with the Commission.
- C) Notice of Hearings. Notice specifying the date and time set for an initial hearing shall be mailed to the parties by ordinary U. S. mail and/or at least ten (10) calendar days in advance of the hearing.
- D) Continuances.
- 1) Upon its own motion, or the motion of any party, the Commission may continue a hearing.
 - (a) Request for continuance shall be addressed to the Commission.
 - (b) Request for continuance should be made, in writing, at least five (5) calendar days prior to the scheduled hearing date.

- (c) Each party shall contact all of the witnesses he has subpoenaed and inform them of any continuance.
- 2) Absent compelling circumstances, a hearing shall not be continued due to the unavailability of a subpoenaed witness. The Commission may hold the record open or accept a testimonial deposition in lieu of oral testimony. The cost of testimonial depositions taken under this rule shall be borne by the party calling them.
- E) Consolidations. If two or more appeals involve substantially identical issues and parties, the Commission may consolidate them into a single hearing in the interests of economy.
- F) Appearances.
- 1) A party may represent himself or may be represented at any hearing before the Commission by any representative who is authorized to appear on his behalf.
- 2) Representatives shall enter their appearances in writing. One who has entered an appearance as a representative of a party is that party's representative of record unless and until a written withdrawal is filed with the Commission.
- G) Substitution of Parties.
- 1) If an appellant dies during the pendency of an appeal, the executor or administrator of his estate shall, upon motion, be substituted for him. An appeal shall be held open for a reasonable time to permit substitution of an executor or an administrator.
- 2) If the appointing authority changes during the pendency of an appeal, the new appointing authority is automatically substituted, and no formal motion or order is required.
- H) Motions.
- 1) All motions shall state, with particularity, both relief sought by the moving party and the basis for granting such relief.
- (a) All motions, together with supporting documentation, if any, shall be served on the opposing party.
- (b) 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 papers 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.

- 2) Procedural motions, not determinative of the final outcome of the appeal, may be acted upon any time after receipt by the Commission without awaiting a response from the opposing party. The party adversely affected by such action of the Commission may move for appropriate relief.
 - 3) Within ten (10) calendar days of service of a non-procedural motion, a party shall serve a written response on the opposing party and file a copy of that response with the Civil Service Commission. The Commission may rule on any non-procedural motion once the time to respond has run. Upon motion of the affected party, the Commission may extend the time to reply to a non-procedural motion.
 - 4) The Commission may rule on any non-procedural motion at a record hearing, even if ten (10) calendar days have not elapsed since service. Provided the time for response to a non-procedural motion has not run, an oral response is acceptable at a record hearing.
- I) Briefs.
- 1) At any time prior to the issuance of a final order and appeal, the Commission may require briefs from the parties. Briefs shall address questions put to the parties by the Commission and shall be filed with time limits set by it.
 - (a) The Commission may limit both the number of reply briefs and the time for their preparation and filing.
 - (b) If a party fails to submit a brief within the time limit, the Commission may exclude his brief from its consideration of an appeal.
 - 2) Upon motion, the Commission may hold the record open for receipt of briefs.
- J) Filing. A document is filed when it is received and time stamped in the office of the Civil Service Commission or by an individual designated by the Commission to accept such filings.

K) Service.

- 1) Any document required by these rules to be served upon a party may be served either personally, by e-mail or by U.S. mail. Where a party is represented by a representative who has entered an appearance, service shall be made upon that representative. Service is complete on the date mailing or personal transmission of the document occurs.
- 2) All motions and briefs shall contain the name, address and telephone number of the person submitting the motion or brief.
- 3) A motion shall be considered by the Commission only if a certificate of service appears on it. Any statement, signed by either the moving party or his representative, is an acceptable certificate of service so long as it contains all of the following information:
 - (a) Date of service.
 - (b) Method by which service was made.
 - (c) Address where service was made.
 - (d) Name of the person or authority who was served.

L) Communications to Representatives of Parties. Communications from the Commission shall be sent to only one (1) representative of a party. If more than one person enters an appearance as a party's representative, communications shall be sent as follows:

- 1) If one of the representatives entering an appearance has been designated, in writing, to receive communications from the Commission, all communications shall be sent to him.
- 2) If no representative has been designated to receive communications from the commission, all communications shall be sent to the representative who last entered an appearance.
- 3) If it is impossible to determine who last entered an appearance, all communications from the Commission shall be sent to the representative whose name is first in alphabetical order.

M) Computation and Extension of Time.

- 1) The date of occurrence of the event causing time to run is not counted in the computation of any time limit under these rules. The last day of the period is included in the computation of the time limit. If the last day of the

period is not a regular business day, the time period runs through to the end of the next regularly scheduled business day.

2) The Commission may extend the time for filing or responding to motions and briefs.

(a) Requests for extension of time shall be made, in writing, prior to the expiration of any time limit.

(b) Requests for extension of time shall be directed to the person having responsibility for handling the appeal.

i. Request for extension of time in appeals assigned to a referee, examiner or trial board shall be directed to the appropriate body responsible for the appeal.

ii. Request for extension of time in appeals assigned to the Commission shall be directed to the Commission.

N) Procedural Orders.

1) Procedural orders affecting only the procedure in an appeal may be issued by the Commission at any time prior to the issuance of a final order.

2) If a party fails to comply with the procedural order, the Commission may dismiss the appeal or grant appropriate relief to the opposing party.

O) Procedure and Record Hearings.

1) The Commission may determine the order in which any hearing shall proceed.

2) Either party may call the opposing party as if on cross-examination.

3) The Commission may require or limit opening statements, closing arguments and rebuttal evidence.

P) Record of Hearings.

1) All record hearings shall be recorded by the Commission unless the Commission orders a stenographic record. Pre-hearings may be recorded.

2) Recordings may be erased after

(a) a final Commission order has been issued, and

(b) sixty (60) calendar days have passed from the mailing of notice of the final order of the Commission of review to the parties entitled to receive such notice.

Q) Copies of Recordings.

- 1) The Commission shall provide copies of the recording of any hearing on written request accompanied by payment for the duplicate.
- 2) Charges for duplicates shall be set by resolution of the Commission.

R) Transcripts. The Commission shall transmit a written transcript of all hearings upon notice of appeal to the Court of Common Pleas. The cost of transcribing and transmitting the transcript shall be paid by the party appealing to Court.

S) Subpoenas.

- 1) Upon request of either party, the Commission shall issue subpoenas for such persons and documents as the requesting party deems necessary to prove its case.
- 2) Subpoenas shall be issued either of two ways on request:
 - (a) The Commission shall supply subpoenas to the parties who are responsible for completing and serving subpoenas.
 - i. Subpoenas may be served personally or by certified mail, return receipt requested.
 - ii. The party serving the subpoena shall file a copy of the subpoena, properly endorsed as to service, at or prior to the hearing from which the subpoena was issued.
- 3) Witnesses shall receive their subpoenas at least three (3) calendar days prior to the hearing at which they are to appear.
- 4) The Commission shall mail subpoenas by ordinary U. S. mail as directed by the party requesting the subpoena.
 - (a) Hearings shall not be continued due to the absence of a witness subpoenaed under paragraph (2) (a) i. of this rule.
 - (b) The Commission shall not mail subpoenas less than seven (7) calendar days in advance of a hearing. If subpoenas cannot be mailed more than seven (7) calendar days in advance of the hearing, the Commission

shall, on request, hold the subpoena so it can be given to the witness at the hearing.

- 5) Absent proof a witness has received his subpoena in a timely manner, the Commission can neither act to enforce its subpoena nor hold the record open for the testimony of that witness, should the witness fail to appear.
 - 6) The Commission shall not review subpoena requests prior to issuing subpoenas. Upon motion and for good cause, the Commission may quash any subpoena. Motions to quash shall be raised, in writing, prior to the hearing. Unless a motion to quash has been granted, a witness shall attend the hearing to which he was subpoenaed.
 - 7) In general, witnesses may not be subpoenaed to pre-hearings.
- T) Failure to Appear.
- 1) If neither the appellant nor his authorized representative appears at any hearing, the Commission may dismiss the appeal.
 - 2) If neither the appellee nor his authorized representative appears at any hearing, the Commission may grant appropriate relief.
 - 3) If neither party appears at a hearing, the Commission may, based upon the information available to it, resolve the appeal in the manner it deems appropriate.

5-8 Discovery

A) Exchange of Documents and Witness Lists.

- 1) On written request of the opposing party, the party shall supply, within seven (7) calendar days of the receipt of the request, a list of both witnesses and documents he intends to introduce at a hearing.
- 2) Within seven (7) calendar days of receipt of a written request, the party shall permit the opposing party to review and copy, at his own expense, any documents intended to be introduced at a hearing.
- 3) If a party fails, without good cause, to comply with paragraphs (1) and (2) of this rule, such testimony or documents shall, upon motion of the adversely affected party, be excluded from the hearing before the Commission.
 - (a) The Commission shall determine whether the party has complied with this rule.

(b) Failure to serve requests for lists or the examination of documents at least ten (10) calendar days before the first scheduled record hearing waives all right to exclude such evidence under this rule.

4) The Commission may continue hearings to permit discovery under this rule.

B) Depositions.

1) The Commission may order depositions upon motion of any party.

(a) Motions to take depositions shall be filed, in writing, with the Commission at least ten (10) calendar days prior to a record hearing. The Commission may continue hearings to take depositions.

(b) The cost of such depositions shall be borne by the party requesting the deposition.

2) The Commission may, on its motion, order depositions taken at a time and place of its choosing. Such depositions may be recorded electronically and may be used in a resolution of an appeal.

C) Pre-Hearings.

1) At any time prior to a record hearing, the Commission may, on its own motion or upon motion of any party, direct the parties or their representatives to participate in a pre-hearing.

2) Pre-hearings may be held for the following purposes:

(a) Simplification or clarification of issues.

(b) Obtaining stipulations and admission.

(c) Agreements limiting the number of witnesses.

(d) Disclosure of evidence expected to be introduced at a record hearing.

(e) Exchange of documents and witness lists.

(f) Discussion of any other matters tending to expedite the proceedings.

3) Final Commission orders, procedural orders and reposts recommendations may be issued based upon information obtained at a pre-hearing.

5-9 Commission Action and Appeals to the Court of Common Pleas

A) Reports and Recommendations. Hearing examiners appointed by the Commission shall submit a report and recommendation to the Commission on each appeal considered by them.

B) Objections to Reports and Recommendations.

- 1) No objection may be made to any decision of a referee, examiner or trial board prior to submission of their report and recommendation.
- 2) Objections to reports and recommendations shall be filed, in writing, within ten (10) calendar days after receipt of the report and recommendation.

The opposing party may file a response to the objections within ten (10) calendar days after receipt of the objections.

(a) If a report and recommendation is refused, unclaimed or sent to the wrong address due to a party's failure to notify the Commission, in writing, of a change of address, it is deemed received by the party three (3) calendar days after mailing.

- 3) The author of the report and recommendation may extend the time to file objections to his report and recommendation and/or responses to objections.
- 4) Objections to reports and recommendations should include both a brief statement of the case and a concise statement of each area of disagreement, together with supporting argument and memoranda.
- 5) No objection may be considered without a certificate of service on the opposing party.

C) Commission Action on Reports and Recommendations.

- 1) The Commission may accept or reject, in whole or in part, any report and recommendation.
- 2) The Commission may take additional evidence or remand an appeal to a trial board, referee or examiner for further consideration or hearing.

D) Final Orders of the Commission.

- 1) A final order shall be signed by the Chairman of the Commission. The original shall be journalized and a copy of the order placed in the case file.

- 2) Copies of final orders of the Commission shall be sent by certified U.S. mail to an affected employee, and by regular U. S. mail to the other parties and their representatives.
- E) Certification of the Record to Court. The Commission shall certify only one (1) copy of the record to the Court of Common Pleas in any appeal. If notice of appeal is filed in more than one (1) court, the record shall be certified to the court in which the appeal was first filed.

CHAPTER 6 EXAMINATIONS

6-1 Examination Sites and Notices

- A) Examinations may be held at such places as the Civil Service Commission deems advisable and shall be administered under its direction.
- B) Printed public notice of each examination for original appointment in municipal classified service shall be posted in conspicuous places in the City office at least two (2) weeks before the last day for filing application.
- C) Notice of promotional examinations shall be sent to each department in which employees would be eligible to compete for such promotion.
- D) Notices of all examinations for original appointment to positions in the classified service of the City may also be distributed to such persons or organizations as may be interested in the positions available or may be furnished to newspapers of general circulation in the City of Bexley.

6-2 Subjects and Weights

The Civil Service Commission shall prescribe the subjects of each examination and the relative weights to be attached thereto. Reasonable accommodations may be made for the testing of individuals in accordance with state and federal law.

6-3 Medical or Psychological Examination As A Requirement for Appointment to the Classified Service

- A) When an appointing authority or the Civil Service Commission determines that medical or psychological qualifications are of special importance for positions in classifications used by the appointing authority, applicants being considered for hiring by the appointing authority shall be required to pass a medical or psychological examination. Such examination shall be given by a licensed practitioner designated by the appointing authority. For purposes of this rule, a "licensed practitioner" is a physician, psychiatrist or psychologist who is

licensed to perform the appropriate medical or psychological or psychiatric examination. The cost of the examination shall be paid for by the appointing authority.

- B) Disclosure of any reports prepared by a licensed practitioner is subject to Chapter 1347 of the Ohio Revised Code.

6-4 Admitting Applicants to Examination

No applicant shall be admitted to any assembled examination after such examination has commenced, or after the advertised time for beginning such examination, whichever time is later.

6-5 Extension of Time In Examinations

No applicant shall be given a longer time than prescribed by the Commission for the completion of an examination, except that separate time limits for accommodation of disabled applicants may be established in accordance with state and federal law.

6-6 Visitors At Examinations

No visitors shall be admitted to the examination room during any examination.

6-7 Inspection of Papers

Except as otherwise provided below, within fifteen (15) days after receiving notice of an examination grade, an applicant may review his own papers and inform himself as to the grades given him on each subject or question. At such time, the applicant may submit, in writing, for the Commission's review any objection or protest he may wish to make concerning the grades assigned. All objections or protests must be submitted in writing. Should an applicant exercise this right to inspect his examination, he shall not be permitted to again take an examination for the same classification within a six (6) month period following such inspection, unless, and in the sole discretion of the Commission, an alternate form of examination is given.

Notwithstanding any other provision of this rule, if the City contracts with a private company to carry out civil service testing, applicants are subject to the contractual limitations on access to testing materials, if any, that may be embodied in the contract or contracts between the City and the private company, to the extent that such contractual provisions are consistent with the requirements of law.

6-8 Changing of Grades

No grades given in any examination shall be changed after the posting of an eligible list, except that the Commission may correct clerical errors at any time before the cancellation

of such lists or may change grades based upon written objections or protests received from applicants.

6-9 Postponement or Cancellation of Examination

A scheduled examination may be cancelled or postponed by order of the Civil Service Commission for any adequate reason. Reasonable efforts shall be made to notify each qualified applicant of the cancellation or postponement.

6-10 Repeating Examinations

An applicant who has competed in a Civil Service examination may not repeat that examination or take an examination for the same classification within six (6) months from the date of original examination, unless an alternative form of examination is given, or provided that the Commission may waive, in writing, this rule upon written request from an applicant stating substantial reasons for granting such waiver.

CHAPTER 7 APPLICATIONS

7-1 Oath and Certificate

All applications must be made under oath or affirmation on the blank prescribed by the Civil Service Commission for employment or examination and must be accompanied by such certificates as may be required.

7-2 Residency Requirement

Every applicant for examination or employment must be a resident of the State of Ohio or signify in writing his intentions to become, upon appointment, a resident of Ohio, unless such requirements are specifically waived in the examination announcement.

7-3 Age Requirement

No application for examination will be accepted unless the applicant is within the age limits, if any, fixed by the Commission in the examination announcement. Original appointments to the Bexley Police Department, as a police officer, require that the applicant has reached the age of 21 and has 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 he or she meets the physical requirements necessary to perform the duties of the classification. The appointing authority shall, prior to making any such appointment, file with the Ohio police and fire pension fund a copy of the report or findings of the licensed physician, physician assistant,

clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife. The professional fee for such physical examination shall be paid by the City of Bexley.

7-4 Character and Fitness of Applicant

Satisfactory information produced at any time to the Commission, either before or after examination, that an applicant has committed acts which demonstrate character traits which would be detrimental to the successful performance of the employment sought, has been dismissed for cause from any branch of public service, or has been convicted of a job-related felony, shall be sufficient to exclude the applicant from examination, or to remove the applicant's name from any eligible list, providing such person shall be notified as to the reason and shall be given opportunity for a review by the Commission. All documentation submitted by applicants or appointing authorities as to character and fitness shall be subject to investigation by the Commission.

7-5 False Statements or Fraudulent Conduct

False statements or fraudulent conduct by the applicant, or by others with the knowledge and consent of the applicant, in any application or examination, shall be deemed cause for exclusion of that applicant from any examination, or for removal of the applicant's name from the eligible list, or for discharge from the service after appointment, provided that such person shall have an opportunity to respond to the allegations prior to the Commission deciding in this regard. If discharge from the municipal service following appointment is pursued, the applicable provisions of these rules and Section 124.34 of the Ohio Revised Code shall be followed.

7-6 Applications

- A) The completed application will be the sole criteria in determining an applicant's eligibility for any examination. Information showing that an applicant meets the minimum qualifications as stated on an examination announcement must appear on the face of the application.
- B) A defective or incomplete application may be corrected by the applicant and resubmitted prior to the filing deadline. No additional information will be accepted after the filing deadline.

CHAPTER 8 ORIGINAL APPOINTMENTS TO POLICE OFFICER POSITIONS

8-1 Appointments

All Appointments to the position of patrol officer shall be made in accordance with the rules set forth herein.

Eligible lists for positions in the police department shall be based on a competitive examination, and the names of the examinees shall be placed on the eligible list in accordance with their grade. The individual receiving the highest grade shall be placed first on the list.

To be appointed to the position of entry level police officer, a candidate must have completed at least one (1) year of post-high school education. This year of education may be undertaken at either a two- or four-year college or university.

8-2 Vacancies

Upon notice of a current or anticipated vacancy in a police officer position that the City intends to fill, the Chief of Police or designee shall commence the process for recruiting applicants to fill the vacancy. The Chief may request the Commission to schedule an entry level exam for such vacancy or may use a qualified state or national testing agency to provide a list of qualified individuals.

If the City uses a state or national testing agency, the Chief of Police or designee may establish a minimum acceptable score on the test for candidates to qualify for consideration by the City. The Chief shall inform the Commission of such minimum score. If the Commission administers the entry level exam, it shall establish a minimum passing score.

8-3 Components of Exam

The City may use any of the following testing methods or a combination of these methods.

Written Test. This part, when required, shall include a written demonstration designed to show the level of the applicant's skills, knowledge and abilities as they relate to those desirable or necessary requirements for police officer position and to ascertain special aptitudes, when required.

Oral Test. This part, when required, may include a personal interview and/or an oral assessment.

8-4 Physical Fitness Requirement

Applicants must pass a physical fitness assessment to be considered for a police officer position with the City.

8-5 Removal Standards for Police Officer Applicants

Applicants for the position of police officer will be recommended for removal from the Civil Service Eligibility List for any of the following reasons:

A) Honesty/Falsification.

- 1) Any intentional falsehood or attempt to conceal disqualifying information during the selection process.
- 2) Any attempt to distort the polygraph examination results.
- 3) Use or attempted use of political influence to change the employment standards in securing police employment.

B) Family History.

- 1) Verified or admitted physical, sexual or emotional abuse of a family or household member, as defined in O.R.C. section 2919.25(E).
- 2) Non-compliance with a court order or legal contract to provide child support, alimony or other financial responsibility, as determined by the appropriate support enforcement agency or a court of law.
- 3) Intentional violation of any protective or temporary restraining order, as determined by a court of law.

C) Employment.

- 1) Verified inability to obtain or retain steady employment during the five (5) year period immediately preceding application. For purposes of this section, "employment" includes both (a) enrollment as a full-time student in good standing in an accredited academic or vocational program, and (b) full-time participation in volunteer or quasi-volunteer programs including VISTA, Peace Corps, Habitat for Humanity, unpaid internships, etc.
- 2) Disciplinary discharge or resignation in lieu of discipline from any occupation within the last five (5) years.
- 3) Disciplinary discharge or resignation in lieu of discipline from any criminal justice occupation (no time limit).

D) Military.

- 1) Any discharge from military service under less than honorable conditions.
- 2) Conviction of any article of the Uniform Code of Military Justice that would be equivalent to a felony under the Ohio Revised Code.

E) Traffic Record.

- 1) Any conviction of vehicular homicide.
- 2) Any OVI, OMVI, DUI or similar conviction within the last five (5) years.
- 3) More than one (1) OVI, OMVI, DUI or similar conviction as an adult or more than two (2) such convictions, including juvenile convictions.
- 4) Three (3) moving violations within the last twelve (12) months.
- 5) Four (4) or more moving violations within the last five (5) years as an adult. The four (4) violations standard will be waived if there are no moving violations within the three (3) most recent years.
- 6) At the time of the interview or polygraph, the applicant is not a licensed driver.
- 7) Applicant does not have auto insurance as required by Ohio law.
- 8) One (1) revocation or suspension of driver's license, as an adult, in effect during the last five (5) years due to a points violation, Financial Responsibility Act violation, or by court order.

F) Gambling.

- 1) Conviction of a gambling offense within the past five (5) years.
- 2) Admission to gambling that has resulted in unstable financial or credit history within the last seven (7) years.
- 3) Conviction of, or admission to, engaging in promotion of illegal gambling wherein the applicant gains a financial benefit.

G) Criminal Activity.

- 1) Any theft offense as an adult or within the last five (5) years.
- 2) Any fraudulent claims or applications for insurance, welfare, workers' compensation, unemployment compensation or other public assistance program.
- 3) Any admission or conviction of an offense, as an adult, defined as a felony by the Federal, State or local laws of the jurisdiction where the offense occurred.

- 4) Any admission or conviction of an offense, as a juvenile, defined as a violent felony by the Federal, State or local laws of the jurisdiction where the offense occurred.
- 5) Any conviction, as an adult, in the last five (5) years of a M-1 or M-2 misdemeanor, as defined by the Federal, State or local laws of the jurisdiction where the offense occurred.
- 6) Two (2) or more convictions, as a juvenile, of a M-1 or M-2 misdemeanor, as defined by Federal, State or local laws of the jurisdiction where the offense occurred.
- 7) Any admission of an offense for carrying a concealed weapon within the last five (5) years, if it is defined as a felony by the Federal, State or local laws where the offense occurred.
- 8) Any pattern of theft offenses from an employer during the course of employment.
- 9) Any conviction for domestic violence or a lesser offense arising from a Domestic Violence charge.

H) Substance Abuse.

- 1) More than one (1) use or purchase of illegal drugs (except marijuana).
- 2) Any use or purchase of marijuana within one (1) year of application or any time during the application process.
- 3) Any pattern of use of illegal drugs, including marijuana, within the past seven (7) years that does not qualify as a disability under the ADA.
- 4) Any illegal sales of drugs of abuse, marijuana or prescription drugs.
- 5) Any current and untreated abuse of alcohol, chemical agents, solvent-based substances or prescription drugs.

I) Financial Responsibility.

- 1) Any history of garnishments, other civil actions, late payments of obligations or formal credit history which would indicate a lack of honesty, integrity or responsibility in taking care of financial obligations.

CHAPTER 9 ELIGIBLE LISTS

Positions in the classified civil service shall be filled based on merit and fitness. When such positions, other than sworn police officer positions, are to be filled by examination, the provisions of Chapters 12 and 13 shall apply.

9-1 Term of List

- A) The period of eligibility for an applicant on an eligible list shall be one (1) year from the date the name was placed on the list.

- B) The Commission may consolidate two or more eligible lists of the same classification by rearranging the names thereon according to the grades received.

9-2 Grades

The Civil Service Commission shall determine the passing point for each examination based on the difficulty of that examination, number of applicants, number of vacancies and other relevant data. When a passing grade is determined, it shall be a matter of permanent record. The Commission may require that a passing grade be attained for all parts of an examination.

9-3 Revocation of Lists

Whenever in the judgment of the Commission it is deemed advisable due to errors, fraud or for other valid reasons, to revoke an eligible list, a re-examination of applicants shall be ordered, and a new eligible list shall be prepared in accordance with the results of such re-examination. Any appointment which was made from the eligible list prior to its revocation, shall be considered valid, provided such appointee was not involved in such fraud or error.

CHAPTER 10 APPOINTMENTS

10-1 Request to Fill Vacancy

Whenever a vacancy in the classified service is to be filled other than by transfer, reinstatement or reduction, the appointing authority shall request certification of an eligible list from the Civil Service Commission. The appointing authority shall designate the classification title and number of positions to be filled.

10-2 Number of Names to be Certified

- A) Upon receipt of a request for certification to fill a vacancy in the classified service, the Commission shall certify to the appointing authority from the eligible list, the names, addresses and grades of the five persons standing highest on such list, provided that the Commission may certify less than five names if five names are not available. When less than five names are certified to an appointing authority, appointment from that list shall not be mandatory, pursuant to Section 13-06. If more than one (1) vacancy is to be filled, the number of names to be certified, if available, shall be determined as follows:
- 1) For 2 to 4 vacancies, add 8 to the number of names.
 - 2) For 5 to 8 vacancies, add 12 to the number of names.
 - 3) For 9 to 12 vacancies, add 15 to the number of names.
 - 4) For 13 to 16 vacancies, add 20 to the number of names.
- B) In appointing a person from the certified eligible list, the rule of fives shall be followed: that is, every time a group of five (5) available applicants is considered, one (1) of said group must be appointed.

10-3 Limitation on Certifications

No person shall be certified from an eligible list more than four (4) times to the same appointing authority for a position of the same classification, except at the request of the appointing authority, except if a list is sent to the appointing authority containing less than five (5) names.\

10-4 Notice

When an eligible's name is included on a certified eligible list to an appointing authority, notice shall be sent to the eligible by the appointing authority informing him of the classification of the position and giving him instructions for reporting for an interview.

10-5 Reply by Eligible

- A) All eligibles certified as eligible to an appointing authority and so notified pursuant to Section 13-04 shall respond in person or in writing to such notification within six (6) calendar days from the time when such notice is mailed or hand-delivered to the eligible.
- B) Failure on the part of an eligible to comply with specific instructions to communicate in accordance with sub-paragraph (A) of this rule shall be considered a waiver of certification, and upon request of the appointing authority, the Commission shall certify an additional name for each eligible

failing to communicate within the six (6) calendar days time period. Eligibles who fail to respond to notice of certification shall be dropped from the eligible list, and notification of such action shall be sent to them immediately.

10-6 List with Fewer Than Five Names

In cases where there are fewer than five (5) names on an eligible list appropriate for certification to any vacancy, such names shall be certified to the appointing authority, who may elect to nominate a person appointment to fill such vacancy. The Commission shall process such appointment, provided that the nominated person meets the qualifications for the position.

10-7 Temporary Employment

When services are to be rendered of a temporary character and for a definite period, the appointing authority shall inform the Commission, stating the duration of such temporary employment, and the classification in which such service shall be rendered. If an eligible list is available for that classification, persons shall be certified eligible for appointment to such temporary position and contacted in the manner provided in this chapter. Neither the acceptance nor declination of any such temporary appointment shall affect the right of an eligible to continue to be certified for a permanent appointment. The period of temporary service, if any, shall be counted as part of the probationary period in the case of subsequent appointment to a permanent position in the same classification and department.

10-8 Removal from List Following Certification

When an eligible whose name has been included on the certification indicates that he is not interested in being considered for the position, or declines an offer of appointment if one is made, his name shall be removed from the eligible list.

10-9 Types of Tests Which May be Included In A Competitive Examination

- A) Written Test. This part, when required, shall include a written demonstration designed to show the level of the competitor's skills, knowledge and abilities as they relate to those desirable or necessary to the class of positions to which they seek appointment, and to ascertain special aptitudes, when required.
- B) Performance Test. This part, when required, shall include such test of performance as would determine the ability of candidates to perform the work involved.
- C) Oral Test. This part, when required, may include a personal interview with competitors for classes of positions where the ability to deal with others, to meet the public, to make an oral presentation or other similar qualifications are to be determined. This part may also be designed to elicit a demonstration of the

criteria enumerated in subsection (A) above. The Commission shall conduct the interview with the participation of the department head.

- D) Proficiency. An evaluation of candidates' proficiency in prior related job duties can be considered.

CHAPTER 11 PROBATIONARY PERIODS

11-1 Nature of Probationary Period

Each employee in the classified civil service shall serve a probationary period following an original appointment, either by certification or provisional appointment, and following each promotion. If following an original appointment, his services are found unsatisfactory, he may be removed at any time during his probationary period. Whenever an employee is given a probationary removal, a written statement of the reasons for such removal, signed by the appointing authority, shall be furnished to the employee and the Civil Service Commission.

11-2 Length of Probation

The standard probationary period for employees of the City of Bexley shall be no less than 120 calendar days, and no more than one (1) calendar year. Probationary periods may be extended up to an additional 180 days by agreement between the Appointing Authority and the employee.

11-3 Probationary Reduction from Promotion

At any time during their promotional probationary period, employees whose service is unsatisfactory following a promotion may be reduced to the classification held just prior to promotion. If no vacancy exists in that classification at the time of reduction, such employee shall have the right to displace employees with less seniority in that classification as if a layoff had occurred in that classification.

CHAPTER 12 TEMPORARY AND EXCEPTIONAL APPOINTMENTS

12-1 Emergency Appointments

An "emergency appointment" is an unclassified appointment to a position to meet an emergency situation, and limited to a maximum of thirty (30) calendar days. Such emergency appointment is authorized only when the Commission determines that an emergency exists, based upon the submission by the appointing authority of documentation establishing an emergency. Successive appointments of an emergency

nature are prohibited. Emergency service shall not count as part of the probationary period. All emergency appointees must meet the minimum requirements for the positions to which they are appointed.

12-2 Temporary Appointments

A “temporary appointment” is an appointment for a limited period, fixed by the appointing authority not to exceed one hundred twenty (120) days. A temporary appointment may exceed one hundred twenty (120) days if made necessary due to sickness, disability or other approved leave of absence of a regular employee, provided such appointment may not exceed the period of such absence.

CHAPTER 13 PROMOTIONS

Promotional positions (supervisory positions) shall be filled based on merit and fitness. With the exception of the position of sergeant in the police department, the appointing authority may fill such a position with an outside candidate.

13-1 Promotions from a Competitive Examination

Whenever there is a vacancy in a position having a classification above the lowest grade in the series, the Commission shall determine the method for filling the position. The cooperation of the department heads may be sought in making this decision. To the extent practicable, all promotions shall be made by a competitive examination, as set forth in Section 13-13 of these rules.

13-2 Promotion without Competition

If a vacancy exists in a promotional position, the appointing authority may promote an eligible applicant for promotion without competitive exam. Such promotion shall be substantiated by the appointing authority showing that such person is entitled to promotion by reason of effective performance and appropriate qualifications.

13-3 Determination of Grade

The final grade of an applicant in a promotional examination shall be his or her total score on all parts of a competitive examination as that term is defined in Section 13-13 of these rules.

13-4 Promotions within Police Department

For positions in the Police Department, the Civil Service Commission shall establish the following requirements for the appointment and promotion of officers within the Department:

- A) To be promoted to the rank of Sergeant, an officer must have completed at least two (2) years of post-high school education. These two (2) years of education may be undertaken at either a two- or four-year college or university.
- B) To be appointed to the position of Chief of Police, the successful candidate must have earned at least a Master's degree, or a higher level graduate degree. There is no specific field of endeavor in which the degree must have been obtained.

The Chief of Police or his designee shall determine the nature and form of the competitive exam used to fill a vacancy in the rank of sergeant. All promotions under this section shall be in compliance with O.R.C. section 124.44.

The exam may include a written component, oral assessment and/or interviews of the candidates. The Commission shall create an eligible list, ranking the candidates who achieved a passing grade in order of the total score. Upon a vacancy in a sergeant position, the Chief shall select one of the top five (5) candidates for the position.

The eligible list for promotion to sergeant shall remain in effect for one year from the date the Commission certifies the list. The Commission may extend the effective date of the list for one additional year.

CHAPTER 14 REINSTATEMENT

14-1 Reinstatements After Resignation

An employee in the classified service who resigns, having served the required probationary period, may be reinstated upon request of the appointing authority, to the same or a similar position in that department, at any time within one (1) year from such resignation.

14-2 Seasonal Positions

All positions in the classified service, where the nature of the work is such that the service is not continuous throughout the year, but recurs in each successive calendar year, shall be designated as "seasonal" positions. Any person appointed to such seasonal position under the provisions of these rules, and who has temporarily separated from the service during the inactive season, shall be entitled to reapply for employment in the same positions in each ensuing year, provided he is not in the meantime disqualified for cause. Nothing in this rule shall guarantee such applicant re-employment in a seasonal position.

14-3 Retention of Seniority and Status Following Reinstatement

An employee who is reinstated following layoff or an approved leave of absence retains seniority and status previously earned.

CHAPTER 15 DISABILITY SEPARATION

15-1 Involuntary Disability Separation

- A) A classified employee who is unable to perform the essential job duties of his position due to a disabling illness, injury or condition may be involuntarily separated. Such separation must be based on credible medical evidence that the employee is unable to perform the essential functions of their job due to such illness, injury or condition.
- B) The appointing authority may require an employee to be examined by a medical provider of its choosing to assess whether the employee can perform the essential functions of the job provided, however, such examination is not required if there already exists substantial, credible evidence that the employee is unable to perform the essential job duties of the employee's current position.
- C) At least twenty-four (24) hours prior to placing an employee on involuntary disability separation, the appointing authority shall provide the employee with the medical evidence supporting its proposed action and schedule a pre-separation conference to allow the employee an opportunity to respond before a final decision has been made.
- D) The employee has the right to submit medical documentation in response to the medical evidence relied upon by the appointing authority.
- E) If the appointing authority determines, after reviewing the relevant medical evidence, that the employee cannot perform the essential functions of the position, it may place the employee on involuntary disability separation. The appointing authority shall notify the effected employee of such decision in writing with a copy to the civil service commission.
- F) An employee separated under this rule has the right to file an appeal with the civil service commission within ten (10) days of the date of separation.

15-2 Voluntary Disability Separation

- A) An employee who is unable to perform the essential functions of the position due to a disabling illness, injury or condition may request a disability separation. The appointing authority may grant the employee's request or require the

employee to submit to an examination by a medical provider chosen by the appointing authority.

- B) If the medical evidence supports the employee's inability to perform the essential functions of the position due to an illness, injury or condition, the employee shall be placed on disability separation.

15-3 Right to Reinstatement

- A) At the time an employee is placed on involuntary or voluntary disability separation, the appointing authority shall notify the employee of the right to reinstatement. Upon presentation of credible medical evidence that the employee can perform the essential functions of the position, the appointing authority shall reinstate the employee provided such request is made within two (2) years from the date the employee was placed on disability separation.
- B) The appointing authority may require a separated employee seeking reinstatement to be examined by a medical provider of its own choosing prior to reinstatement.
- C) An employee denied reinstatement may file an appeal of that decision with the civil service commission.
- D) An employee who is not reinstated within two (2) years of the date the employee was placed on involuntary or voluntary disability separation shall be deemed permanently separated.

15-4 Medical Examinations

- A) Employees required to undergo a medical examination under this rule must cooperate in the examination.

CHAPTER 16 LAYOFFS/REDUCTIONS IN FORCE

16-1 Layoffs and Reduction in Force

- A) Employees in the classified civil service of the City may be laid off whenever a reduction in force is necessary due to a lack of funds, lack of work, or the abolishment of positions.
- B) If it becomes necessary for an appointing authority to reduce the workforce, the appointing authority shall lay off employees in accordance with rules of this Chapter.

- C) If an appointing authority abolishes positions in the civil service, the abolishment of positions and any resulting displacement of employees shall be made in accordance with the rules of this Chapter.

16-2 Determination of a Lack of Funds or a Lack of Work, and the Filing of a Statement of Rationale and Supporting Information.

- A) The determination of the existence of a lack of funds or a lack of work shall be made by the appointing authority of the City.
- B) The appointing authority shall provide the Commission with a statement of rationale and supporting information for the determination of the lack of funds or lack of work as is available prior to the time the layoff notices are mailed or delivered to the affected employees. The statement of rationale and supporting information shall be filed with the Commission prior to sending the notices of the layoff to employees.

16-3 Abolishment of Positions in the Classified Service.

- A) Reasons for Abolishment. An appointing authority may abolish positions in the classified civil service for any of the following reasons:
 - 1) As a result of a reorganization for the efficient operation of the appointing authority;
 - 2) For reasons of economy; or
 - 3) For lack of work which is expected to permanent. A lack of work shall be deemed permanent if it is expected to last more than one year.
- B) Determination in Filing a Statement of Rationale and Supporting Information. The determination to abolish positions shall be made by the appointing authority. The appointing authority shall file with the Commission a statement of rationale and supporting information for the determination to abolish positions. This statement of rationale and supporting information shall contain information as is available prior to the time the layoff notices are mailed or delivered to the employees to be laid off as a result of the abolishments.

16-4 Determination by appointing authority of Classifications for Layoff

Whenever a reduction in the workforce is necessary, the appointing authority shall determine the classification or classifications in which the layoff or layoffs will occur, and the number of employees to be laid off within each classification.

16-5 Order of Layoff of Employees

- A) Appointment Categories Established. For purposes of this chapter, the appointment categories for order of layoff of employees are as follows: part-time temporary, full-time temporary, intermittent, part-time seasonal, full-time seasonal, part-time permanent, and full-time permanent.
- B) Progression of Layoffs. Layoffs shall be based upon ascending retention point order beginning with the employee having the fewest retention points. In cases where two or more employees have identical retention points, the tie shall be broken in accordance with Section 24-06 of these rules. Employees shall receive one (1) retention point for each completed bi-weekly service of full-time employment with the City and one-half (1/2) retention point for each bi-weekly service of part-time employment with the City.
- C) Order of Layoff within Appointment Categories. Within each appointment category, employees shall be laid off in the following order:
- 1) Employees who have not completed their probationary period after appointment.
 - 2) Employees who have completed their probationary period after appointment.
- D) Order of layoff. In the classification(s) selected for layoff the appointing authority shall displace employees using the following "order of layoff":
- 1) Part-time, intermittent and temporary employees in the same classification who have not completed their probationary period.
 - 2) Part-time, intermittent and temporary employees in the same classification who have completed their probationary period.
 - 3) Full-time employees in the same classification who have not completed their probationary periods.
 - 4) Full-time employees in the same classification who have completed their probationary period.
- E) Tie Breaker. In the event two or more employees have identical retention points as calculated by this rule, the tie shall be utilized, in the following order, the following methods:
- 1) First, employees having the most recent date of continuous service from which no break in service has occurred shall be laid off or displaced first; and

- 2) Second, the appointing authority shall determine the employee to be laid off or displaced first.

16-6 Notification of Layoff or Displacement

- A) Each employee to be laid off shall be given advance written notice by the appointing authority. Such written notice shall be hand-delivered to the employee at work or mailed by certified mail to the employee's last known address on file with the appointing authority. If hand-delivered, such notice shall be given at least fourteen (14) calendar days before the effective date of layoff or layoff due to displacement, and the day of hand-delivery shall be the first day of the 14-day period. If mailed, such notice shall be mailed at least seventeen (17) calendar days before the effective date of the layoff or layoff due to displacement. The day the letter is mailed shall be the first day of the 17-day period.
- B) Each notice of layoff or displacement shall contain the following information:
 - 1) The reason for layoff or displacement.
 - 2) The effective date of the layoff or displacement.
 - 3) The employee's accumulated retention points.
 - 4) The right of the employee to appeal a layoff or displacement to the Municipal Civil Service Commission and that the appeal must be made within ten (10 days after the employee has received notification of layoff or displacement).
 - 5) A statement advising the employee that he may have the right to displace another employee and that the employee must notify the appointing authority in writing of his desire to exercise his displacement rights within five (5) days of date of notification.
 - 6) The statement advising the employee of the right to reinstatement or reemployment.
 - 7) A statement that, upon request by the employee, the appointing authority will make available a copy of this rule of the Municipal Civil Service Commission.
 - 8) A statement that the employee is responsible for maintaining a current address with his appointing authority.

16-7 Displacement Rights of Employees

- A) Each employee laid off or employee whose position has been abolished, or displaced as a result of a layoff, shall have the right to displace another employee with the fewest retention points in the manner provided in this rule. Displacement rights of an employee may only be exercised within the employee's appointing authority.
- B) An employee who is to be laid off may exercise his displacement rights under the provisions of this Chapter, or be laid off. Displacement occurs the date the employee is notified that another employee has exercised his right of displacement, and that the employee with fewer retention points is to be displaced. A displaced employee may exercise a right to displace another employee if such right to displace exists. If the displaced employee does not have the right to displace another employee, then the displaced employee shall be laid off.
- C) Employees shall notify their appointing authority, in writing, of their intention to exercise their displacement rights within five (5) days of their receipt of notice of layoff or displacement.
- D) Within the order of displacement set forth in this rule a laid off employee exercising his displacement rights shall displace the employee with the fewest retention points. Employees shall only have the right to displace employees with fewer retention points in the order established in Section 24-05 of this Chapter.
- E) No employee shall displace an employee for whose position or classification there exists special minimum qualification unless the employee desiring to displace another employee possesses the requisite minimum qualifications or bona fide occupational qualifications for the position or the classification. The special qualifications must be established by a position description for the position, by classification specification minimum qualification statement, or by bona fide occupational qualifications for the position(s) or classification. The appointing authority shall be responsible for establishing the necessity of special qualifications for a position.
- F) An employee exercising his displacement rights to a position or an employee displaced as a result of a layoff or abolishment shall be paid according to the pay range assigned to the classification into which the employee displaced or was displaced.

16-8 Order of Displacement

Laid off employees and employees whose positions are abolished, and employees displaced as a result of a layoff, who have the right to displace, shall exercise their displacement rights in the following order:

- A) An employee who has the right to displace whose position is abolished and who is to be laid off, may displace within his classification. If the employee exercises his right to displace within his classification, he shall displace the employee with the fewest retention points in that classification.
- B) An employee who is to be laid off or displaced as a result of a layoff may displace an employee with the fewest retention points in the next lower and then successively lower classifications in the classification series. This process shall continue if necessary until the employee with the fewest retention points in the lowest classification of the classification series has been reached, and if necessary, laid off.

16-9 Reinstatement Rights

- A) Each appointing authority who has laid off employees shall prepare recall lists of the names of the employees laid off. The recall list shall be compiled by the classifications in which the employees were laid off. The names of all laid off and displaced certified employees shall appear on one list, and the names of all laid off and displaced provisional employees shall appear on a second list. The names shall be listed in descending retention point order in each appointment category. These lists shall be in reverse order of the order of layoff as established in this Chapter. The recall list shall contain the employee's name, type of appointment, retention points, and date of commencement of continuous service. In cases of identical retention point ratings, the order of recall shall be the reverse order of the layoff.
- B) An employee's name shall remain on the appropriate list for a period of one (1) year from the date of the job abolishment, layoff, or date of displacement from his original classification. These recall lists shall thereafter be administered by the Commission.
- C) The administration of the recall lists for reinstatement shall comply with the following requirements:
 - 1) The vacancies that occur in classification series in which a recall list exists must be accepted or declined in writing by the first person on the certified recall list for that classification series before the next person on the recall list may be offered a vacancy.

- 2) After the certified recall lists for each appointing authority and any eligible lists for that classification have been exhausted, the appointing authority provisional recall list shall be used for purposes of reinstatement as follows:
 - 3) Vacancies occurring in the classification series for which a recall list exists, must be accepted or declined in writing by the first person on the provisional layoff list for that classification series for positions in classifications with pay ranges equivalent to or lower than the classification from which the employee was laid off or displaced from before the next person the list may be considered for reinstatement.
- D) A laid off or displaced employee who chooses not to exercise his option to displace shall only be entitled to reinstatement to the classification from which the employee was laid off or displaced.
- E) Where an appointing authority has an employee on a recall list, the appointing authority shall not fire, promote, or transfer into the classification or the classification series subject to the recall list except as provided in Paragraph C(2) of this rule.
- F) Any employee reinstated under this rule shall not serve a new probationary period when reinstated; except any employee laid off or displaced while serving an original or promotional probationary period shall begin a new probationary period upon reinstatement.

16-10 Appeal of Layoff, Abolishment or Displacement

An employee may appeal a layoff, abolishment, or a displacement which is a result of a layoff, to the Municipal Civil Service Commission. Such appeal must be filed or postmarked no later than ten (10) days after the employee receives notice of the layoff, abolishment, or the date the employee is displaced. An employee shall be considered displaced the date the employee is notified that another employee has exercised his right to displace an employee from his position. An appeal shall be made in accordance with the rules promulgated by the Municipal Civil Service Commission.

CHAPTER 17 SEVERABILITY

17-1

Each rule of the Municipal Civil Service Commission and each section of each rule is an independent rule. The holding of any rule, chapter or section to be void, invalid, or ineffective for any reason does not affect the validity of any other rule or section.

CHAPTER 18 POLITICAL ACTIVITY

18-1

- A) The purpose of this rule is to provide appointing authorities and employees with guidelines concerning political activity. Employees in the classified service are prohibited by Section 124.57 of the Ohio Revised Code from engaging in partisan political activity.
- 1) “**Classified service**” means all persons in active pay status serving in the competitive classified service of the City or City Health District whether in certified or provisional status. Unless specifically exempted from the classified service in accordance with the Ohio Revised Code and these rules, an employee shall be considered to be in the classified service for purposes of this rule.
 - 2) “**Political activity**” and “**politics**” refer to partisan activity, campaign and election involving primaries, partisan ballots or partisan candidates.
- B) The following are examples of permissible activities for employees in the classified service:
- 1) Registration and voting.
 - 2) Expression of opinions, either oral or written.
 - 3) Voluntary financial contributions to political candidates or organizations.
 - 4) Circulation of non-partisan petitions or petitions stating views on legislation.
 - 5) Attendance at political rallies.
 - 6) Signing nominating petitions in support of individuals.
 - 7) Display of political materials in the employee’s home or on the employee’s property.
 - 8) Wearing political badges or buttons, or the display of political stickers on private vehicles.
- C) The following activities are prohibited to employees in the classified service:
- 1) Candidacy for public office in a partisan election.

- 2) Candidacy for public office in a non-partisan general election if the nomination for candidacy was obtained in a partisan primary or through the circulation of nominating petitions identified with a political party.
 - 3) Filing of petitions meeting statutory requirements for partisan candidacy to elective office.
 - 4) Circulation of official nominating petitions for any candidate participating in a partisan election.
 - 5) Service in an elected or appointed office in any partisan political organization.
 - 6) Acceptance of a party-sponsored appointment to any office normally filled by partisan election.
 - 7) Campaigning by writing for publications, by distributing political material, or by writing or making speeches on behalf of the candidate for partisan elective office, when such activities are directed toward party success.
 - 8) Solicitation, either directly or indirectly, of any assessment, contribution or subscription, either monetary or in kind, for any political party or political candidate.
 - 9) Solicitation of the sale or actual sale of political party tickets.
 - 10) Partisan activities at the election polls, such as solicitation of votes for other than non-partisan candidates and non-partisan issues.
 - 11) Service as recorder, checker, watcher, challenger, judge, or board of election poll worker for any party or partisan committee.
 - 12) Participation in political caucuses of a partisan nature.
 - 13) Participation in a political action committee which supports partisan activity.
- D) An employee in the classified service who engages in any of the activities listed in Paragraph C (1) to (13) is subject to removal from his position in the classified service. The appointing authority may initiate such removal action in accordance with the procedures in Chapter 29 of these rules. The Commission may also institute an investigation or action in case of a violation.
- E) Employees in the unclassified service who serve at the pleasure of the appointing authority and are not subject to competitive examination, are not

prohibited from engaging in political activity, unless specifically precluded by a federal or state constitution or statutory provisions.

CHAPTER 19 TENURE OF EMPLOYEES

19-1

The tenure of every officer or employee in the classified service of the City or City Health District shall be during good behavior and efficient service and no such officer or employee shall be reduced in pay or position, suspended or removed, except as provided in Chapter 18 of these rules, and for incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of such sections of rules of the Commission, or any other failure of good behavior or any other acts of misfeasance, malfeasance, or nonfeasance in office. A finding by the appropriate ethics commission, based upon a preponderance of the evidence, that the facts alleged in a complaint under Section 102.06 of the Ohio Revised Code constitutes a violation of Chapter 102 of the Ohio Revised Code may constitute grounds for dismissal. Failure to file a statement or falsely filing a statement required by Section 102.02 of the Ohio Revised Code may also constitute grounds for dismissal.

19-2

In the case of reduction, suspension of more than twenty-four (24) hours for those employees subject to the Fair Labor Standards Act or more than forty (40) hours for those employees exempt from the Fair Labor Standards Act, or removal, the appointing authority shall furnish such employee with a copy of the order of reduction, suspension, or removal, which order shall state the reasons therefore. Such order shall be filed with the Commission.

CHAPTER 20 TIME LIMITS FOR FILING APPEALS

20-1

- A) Except as set forth below, appeals from Chapter 29 orders shall be filed, in writing, not more than ten (10) calendar days after the filing of an order of the Commission. If a Chapter 29 order is received by an employee after it is filed with the Commission, the time for filing an appeal begins to run from the date of receipt by the affected employee, not from the date of filing with the Commission.

- B) Appeals from layoffs, job abolishments and transfers shall be filed in writing, not more than ten calendar days after receipt of the notice of layoff, job abolishment, or job transfer.
- C) Appeals of decisions to place an employee on involuntary disability separation must be filed within ten (10) days of the effective date of such action.
- D) Appeals of all other actions shall be filed with the Commission not more than thirty days after receipt by the affected party, of written notification of the action.
- E) If an appointing authority fails to file an order or to provide an employee with written notice, the affected employee shall file an appeal within thirty (30) calendar days of the time he has actual notice of the action.