

**City of Oberlin, Ohio**

**ORDINANCE No. 11- 75 AC CMS**

**AN ORDINANCE APPROVING AND ADOPTING AMENDED  
RULES AND REGULATIONS OF THE OBERLIN CIVIL SERVICE COMMISSION**

BE IT ORDAINED, by the Council of the City of Oberlin, Lorain County, State of Ohio, a majority of all members elected thereto concurring:

SECTION 1. That the attached amended Rules and Regulations of the Oberlin Civil Service Commission, as approved by the Oberlin Civil Service Commission on November 2, 2011 are hereby approved and adopted, and any and all previous civil service rules and regulations in conflict therewith are hereby so amended.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this ordinance shall take effect at the earliest date allowed by law.

PASSED: 1st Reading – November 21, 2011  
2nd Reading – December 5, 2011 (S,E, F)  
3rd Reading –

To implement changes to the Civil Service Rules as soon as possible.
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ATTEST:



BELINDA B. ANDERSON, CMC  
CLERK OF COUNCIL

  
SHARON F. SOUCY  
ACTING PRESIDENT OF COUNCIL

POSTED: 12/06/2011

EFFECTIVE DATE: 12/05/2011

**RULES AND REGULATIONS**  
**OF THE**  
**OBERLIN CIVIL SERVICE COMMISSION**

**OBERLIN, Ohio**  
**November 21, 2011**

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# RULES AND REGULATIONS OF THE OBERLIN CIVIL SERVICE COMMISSION

## OBERLIN, OHIO

### DEFINITIONS

Except as otherwise provided in this chapter, as used in this chapter, definitions are as follows:

**“Certification for Appointment”** is being certified by the Civil Service Commission as a confirmed candidate to be ready for hire.

**“Civil service”** includes all offices and positions of trust or employment in the service of the City of Oberlin.

**“Civil Service Commission”** is a five (5) member group appointed by the Council. The Commission shall keep minutes of its proceedings and records of its examinations, make investigations concerning enforcement of the Civil Service provisions of this Charter and report annually to Council. The Commission shall conduct practical and impartial examinations, provide a list of eligible employees and arrange for promotions within the Classified Service.

**“Classified service”** means the competitive classified civil service of the City of Oberlin, which shall comprise of all positions not specifically included in the City Charter in the “Unclassified Service” and shall be divided into competitive and noncompetitive classes.

**“Competitive Class”** shall include all positions and employments for which it is practicable to determine the merit and fitness of applicants by competitive tests.

**“Noncompetitive Class”** shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character and may be determined by the rules of the Commission, and unskilled labor.

**“Commission”** means the municipal civil service commission of the City of Oberlin.

**“Discharge”** (or Reduction) is where an employee is discharged or reduced in rank or pay until he or she has been presented with reasons for such discharge or reduction, specifically stated in writing, and has been given an opportunity to be heard in his or her own defense. The reason for such discharge or reduction, and any reply in writing shall be filed with the Commission.

**“Discrimination”** is prohibited against individuals with respect to race, color, creed, gender, age, disability, sexual orientation, political affiliation or place of national origin for employment, rates of pay or promotion. All employment shall be solely on the basis of merit whether for classified or unclassified positions or temporary employment.

**“Eligibility List”** is a list compiled from the returns of each examination, listing people who have achieved a passing grade in the examination and who are otherwise eligible for an appointment. The people on the eligibility list are ranked in order of their respective grades and this list is open for public inspection. In the case of a tie in grading, the date and time of the application will be used to establish the ranking.

**“Official Roster”** is a document which shall contain the name of every person employed or performing duties in the classified service and includes the name and address of the officer or employee as well as the title of the department of employment, date and type of each appointment (classified vs. unclassified) and subsequent changes in employment.

**“Proctor”** is the person administering the Civil Service examination(s).

**“Probation”** is an appointment or promotion which shall not be deemed complete until a period of probation not to exceed one (1) year has elapsed, and a probationer may be discharged or reduced in rank or pay at any time within the probationary period upon the recommendation of the head of the department in which said probationer is employed.

**“Promotional Exam”** is a competitive examination that contains both written and oral elements (with a possible manual skill element) that will advance the potential successful candidate to a higher position within the organization. Extra scoring points may be added to the incumbent’s overall score for items such as seniority, education, and residency within the City of Oberlin.

**“Reduction”** (or “Discharge”) is where an employee is discharged or reduced in rank or pay until he or she has been presented with reasons for such discharge or reduction, specifically stated in writing, and has been given an opportunity to be heard in his or her own defense. The reason for such discharge or reduction, and any reply in writing shall be filed with the Commission.

**“Unclassified Service,”** according to the City Charter shall include:

- Officers elected by the people
- The City Manager
- Appointive positions, commissions and boards
- Heads of Departments, including the Police Chief and Fire Chief
- Administrative Assistants to appointive and elective officials, department heads and boards or commissions.
- Temporary or part-time employees, except volunteer firefighters and police officers.

**Rule 1. ORGANIZATION AND STAFF**

1. *Officers.* At the first meeting of each calendar year, the Commission shall elect one of its members Chair and one as Vice-Chair. These officers serve for one year. It is the duty of the Chair to call meetings of the Commission to transact its business; to preside at its meetings; to sign the minutes of all its actions; and to sign, or cause to be signed, all warrants or orders for the payment of money from its accounts and funds.

The Chair may on his/her own initiative, and must, upon the request of any other member of the Commission, call a special meeting of the Commission to be held not later than ten days from the date of notice of such meeting. In the absence of the Chair, the Vice-Chair acts as Chair. Three members of the Commission constitute a quorum at any meeting of the Commission; and it requires the affirmative vote of at least three members to adopt any motion or resolution.

2. *Secretary.* The Commission shall select a suitable person to act as Secretary of the Commission. The Secretary shall attend all meetings and hearings of the Commission and keep minutes thereof; keep in the form of minutes a record of the official actions of the Commission; accurately and properly keep all the records of the Commission; keep all files in proper order; prepare and deliver, or cause to be delivered, notices and other communications ordered by the Commission; maintain the official roster of employees; handle such correspondence as the Commission determines; and perform such other duties as may be required by the Commission.

3. *Official Records.* The Secretary shall keep in the form of minutes a record of the official actions of the Commission with regard to:

- a. All appointments or positions in the service of the City and the titles thereof.
- b. Transfers, suspensions, removals, and reinstatements to eligible lists.
- c. Lists of all examinations with their dates.
- d. Results of all requests for re-grading.
- e. Decisions on appeals of suspensions, demotions, or dismissals, and the reason in brief for each.
- f. Classifications of positions and changes in classifications.
- g. Decisions in all hearings.

4. *Official Roster.* An official roster, which shall contain the name of every person employed or performing duties in the classified service, shall be kept in the office of the Secretary of the Commission and shall be made available to the public upon request. The roster shall show the following:

- a. The name of the officer or employee.
- b. The address of the officer or employee (except those employees/officers whose personal information must be kept confidential pursuant to law).
- c. The title of the office or employment.

- d. The date and character of each appointment and every subsequent change in employment status.
- e. All changes in compensation.

5. *Unclassified Employees.* A separate roster shall be kept of all unclassified employees. This shall be kept current and include the employee's name, position, title and position description.

6. *Reports Regarding Changes.* In order that the Commission may keep proper records of changes in the service, each appointing authority shall report to the Commission the following changes:

- a. Appointments, whether temporary, emergency, permanent or promotional.
- b. Refusal or neglect on the part of a person, duly certified, to accept an appointment.
- c. Changes in the rank and compensation of any officer or employee holding a classified position.
- d. Transfers, lay-offs, leave of absence, resignations, suspensions, reductions, or removals of any employees and the cause for each.

## **Rule 2. CLASSIFICATION**

1. *Definition.* A classification is a group of positions defined by a common statement of duties and typical tasks to which has been assigned an appropriate title by the appropriate appointing authority.

2. *Positions Classified.* All offices and positions in the service of the City of Oberlin, except those exempted by the City Charter, shall be in the classified service and subject to the rules of the Commission.

3. *Classification by the Commission.* Every position in the service existing when these rules take effect, or hereafter created, shall be classified by allocation to its appropriate classification within, or outside of, the City's classified service, and, if assigned to the classified service, whether competitive or non-competitive. Such allocation shall be recommended by the appropriate appointing authority and made by the Commission. Whenever a position has been allocated, the title of the classification shall become the title of that position for all purposes.

4. *New Classifications.* Whenever a new position is established or the duties of a position are so changed that the statement of duties and typical tasks of the classification to which it was originally allocated no longer applies, the appointing authority shall so report to the Commission and transmit a full statement of the



circumstances and description of duties. The Commission shall then determine the proper classification of such position.

5. *Duties and Typical Tasks.* The statement of duties and typical tasks of classifications should have the following characteristics:

- a. It is descriptive only and not restrictive. It indicates the kinds of positions that should be allocated to the respective classifications by the duties, responsibilities, and qualification requirements.
- b. The statement shall be construed as a general description of the kind of work involved in positions that properly fall within a classification. It should not be construed in any sense as prescribing what the duties of a position shall be nor as limiting the expressed or implied power of the authority invested with the right to prescribe or alter the duties of any position. Where a substantive change of duties is made, except for a temporary period not to exceed seven days or by the addition of duties that are incidental to the main employment, such change shall be reported to the Commission.
- c. Minimum entrance qualifications shall constitute a part of the description or definition of the kind of employment by expressing the minimum qualifications desirable in a new appointee.

### **Rule 3. APPLICATIONS**

1. *Employment Applications Furnished.* City of Oberlin Employment Applications for examinations shall be furnished by the Commission. Employment Applications for entrance examinations shall provide for the submission of the information as set forth in the Ohio Revised Code. The Commission may determine and provide for the submission of any other relevant information either on the application or supplemental sheet.

2. *Completion of Employment Applications.* Employment Applications must be completed in ink or be type-written and shall be completed and signed by the applicant, sworn or affirmed to, and filed with the Secretary of the Commission within the time limit fixed by the Commission for the particular examination.

3. *Rejection of Application or Applicant.* The Commission may, for sufficient cause, reject an application prior to the date of the examination for which it is filed. In all cases of rejection, the applicant shall be notified, in writing, of the rejection and the reasons therefore. Any of the following may be sufficient cause for rejecting an application:

- a. That the application lacks any of the minimum entrance qualifications set forth in the official notice of the examination.
- b. That the applicant was previously in the service of the City of Oberlin and was removed for cause or resigned pending dismissal.

- c. That the applicant has made a false statement in his/her application with regard to any material fact.

Upon rejection of an application, any applicant shall have an opportunity to show cause to the Commission why his/her application should not have been rejected. Such appeal should be submitted in writing within ten working days of the rejection.

4. *Police and Fire Department Applications.* Applicants for examinations for original appointment as police patrol officer must have attained the age of twenty-one and as firefighter, the age of eighteen, on or prior to the date of examination. Applicants must be U. S. citizens or have legally declared their intention to be a U. S. citizen.

#### **Rule 4. EXAMINATIONS**

1. *General.* Examinations may be held at such places as the Commission deems advisable and shall be administered under its direction.
2. *Notice of Examination.*
  - a. *Entrance Examination.* Notice of competitive entrance examinations shall be given through the local newspapers and by posting notices conspicuously at City Hall, on the City website, and in such other places as may be deemed advisable not less than two weeks prior to such examinations.
  - b. *Promotional Examination.* Notice of competitive promotional examinations shall be given by posting in conspicuous places in the departments whose employees may be interested in the position or by individual communications to the employees eligible for such promotion. Such notice shall be given not less than two (2) weeks prior to the examination.
3. *Identity Of Examinees Concealed.* The identity of all persons taking competitive examinations shall be concealed by the use of an identification number which shall be used on all examination papers. This number shall be used from the beginning of the examination until all the papers have been rated.
4. *Scope of Examination.*
  - a. *Entrance Examination.* Entrance examinations shall be practical in character and shall relate directly to those matters which will fairly test the relative capacity of the person examined to discharge the particular duties of the position for which appointment is sought and shall, when appropriate, include tests of manual skill. Tests of manual skill may be administered before or after the entrance examination. The Commission shall prescribe the nature and subject matter of each examination and

the relative weights to be attached thereto provided that any determination must have been adopted prior to the date of such examination.

b. *Promotional Examination.* Promotional examinations shall be competitive examinations both written and oral. The selection process may also include additional components, as recommended by the appointing authority. Promotional examinations shall be practical in character and shall relate directly to those matters which will fairly test the relative capacity of the person examined to discharge the particular duties of the position for which promotion is sought. Extra points, up to a maximum of ten (10), shall be added to each applicant's final test score as follows:

i. Seniority – Preference credit shall be added to the passing score of candidates in one-quarter (1/4) point increments, up to a total of five (5) points, for each successful year of City of Oberlin service completed within the department for which the test is given. Successful years of service are equivalent to each year of City service served without any incidents requiring discipline greater than or equal to a written reprimand.

ii. Education – Preference credit shall be added to the passing score of candidates in one-half (1/2) point increments, up to a total of five (5) points, for each year of formal education completed beyond high school that relates to the position being applied for, and/or for each forty (40) hours of in-service training completed beyond the minimum required for the applicant's present position. No points will be award for mandated, required educational training. The Department Director and the direct supervising Council Appointee or his/her designee are responsible for verifying and validating the completed training to award points

5. *Physical Examination.* Whenever, in the recommendation of the appointing authority and judgment of the Commission, physical qualifications are of special importance, the candidate shall be required to pass a physical examination, and be certified as qualified in such respect. This may be required prior to admission to the examination, or prior to being placed on an appropriate eligibility list, or prior to being certified for appointment, as the Commission may deem advisable.

Physical examinations, whenever required by the Commission, shall be made by a licensed physician designated by the Commission who shall furnish a certificate as to the applicant's physical condition.

a. *Results of Physical Examinations.* The results of physical examinations, including any physician's certificate, shall be used solely to determine an applicant's eligibility to take an examination or his/her eligibility for

appointment after examination, and shall not become a part of the applicant's grade resulting from the examination.

6. *Admitting Applicants to Examination.* No applicant shall be admitted to any examination more than thirty minutes after the advertised time for beginning such examination, or after any applicant competing in such examination has completed his/her work and left the examination room. The proctor may admit the applicant conditionally, subject to the final approval or disapproval of such admission by the Commission.

7. *Time.* No applicant in any examination shall be given a longer time on any subject than prescribed by the Commission when examination questions are approved.

8. *Visitors.* No visitors shall be admitted to the examination room during any examination except by special permission of the proctor.

9. *Postponement of Examination.* Examinations may be postponed by the Commission, which shall designate the reason therefore.

10. *Posting Of Results.* A notice mentioning the position, names of all applicants who took the examination, names of those who achieved a passing score, and relative ranking of applicants on the eligibility list shall be posted conspicuously at City Hall and on the City website for two (2) weeks immediately following the final determination of the eligibility list by the Commission.

#### **Rule 5. ELIGIBILITY LISTS**

1. *Posting.* The Commission shall prepare and keep open for public inspection, from the returns of each examination, an eligibility list of the persons who have achieved a passing grade in the examination and who are otherwise eligible for appointment. Such persons shall take rank upon the eligibility list in the order of their respective grades. In case of a tie, the date and time of the filing of the candidates' application will be used to establish the ranking.

2. *Duration.* The term or eligibility of each list and of the names appearing thereon shall comply with the Ohio Revised Code.

3. *Names Not To Be Certified.* The name of any person appearing on an eligibility list who:

- a. fails, when requested, to report or arrange within six days (Sundays and holidays excluded) for an interview with an appointing authority;
- b. fails to respond to a notice from the Civil Service Commission;
- c. declines an appointment; or
- d. cannot be located by the postal authorities;

shall not thereafter be certified to any appointing authority as eligible for appointment. The eligible person shall be notified to this effect unless his/her whereabouts are unknown.

4. *Revocation.* 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.

#### **Rule 6. APPOINTMENTS**

1. The appointing authority in which a position in the classified service is to be filled shall request the Commission certify to the appointing authority the names and addresses of the ten candidates standing highest on the eligibility list for the class or grade to which the position belongs, except that the Commission may certify less than ten names if ten names are not available. When less than ten names are certified to an appointing authority, appointment from that list shall not be mandatory.

2. The appointing authority shall notify the Commission of a position in the classified service to be filled, and the appointing authority shall fill the vacant position by appointment of one of the ten persons certified by the Commission. If more than one position is to be filled, the Commission may certify a group of names from the eligibility list, and the appointing authority shall appoint in the following manner: Beginning at the top of the list, each time a selection is made, it must be from one of the first ten candidates remaining on the list who is willing to accept consideration for the position. If an eligibility list becomes exhausted, and until a new list can be created, or when no eligibility list for a position exists, names may be certified from eligibility lists most appropriate for the group or class in which the position to be filled is classified. A person who is certified from an eligibility list more than three times to the same appointing authority for the same or similar positions may be omitted from future certification to that appointing authority, provided that certification for a temporary appointment shall not be counted as one of those certifications. Appointments to all positions in the classified service, that are not filled by promotion, transfer, or reduction, shall be made only from those persons whose names are certified to the appointing authority, and no employment, except as provided in those sections, shall be otherwise given in the classified service of the City.

3. All original and promotional appointments shall be for a probationary period, not less than sixty days nor more than one year, to be fixed by the rules of the appointing authority and except for original appointments to a police department as a police officer or to a fire department as a firefighter which shall be for a probationary period of one year. No appointment or promotion is final until the appointee has satisfactorily served the probationary period. If the service of the probationary employee is unsatisfactory, the employee may be removed or reduced at any time during the probationary period. A probationary employee duly removed or reduced in position for unsatisfactory service does not have the right to appeal the removal or reduction to the Commission.

**Rule 7. LAYOFFS AND ABOLISHMENTS**

1. Whenever it becomes necessary for an appointing authority to reduce its work force, the appointing authority shall lay off employees or abolish their positions in accordance with the procedures set forth in the City's collective bargaining agreements, if applicable, and the rules of the applicable appointing authority.

2. Employees may be laid off as a result of a lack of funds within an appointing authority. Appointing authorities in collaboration with the Finance Director, shall determine whether a lack of funds exists and shall file a statement of rationale and supporting documentation with the Commission prior to sending the layoff notice.

a. As used in this division, a "lack of funds" means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of funding for programs funded by the federal government, special revenue accounts, or proprietary accounts. Whenever a program receives funding through a grant or similar mechanism, a lack of funds shall be presumed for the positions assigned to and the employees who work under the grant or similar mechanism if, for any reason, the funding is reduced or withdrawn.

3. Employees may be laid off as a result of lack of work within an appointing authority. The appointing authority shall determine whether a lack of work exists and shall file a statement of rationale and supporting documentation with the Commission prior to sending the layoff notice.

a. As used in this division, a "lack of work" means an appointing authority has a current or projected decrease in workload that requires a reduction of current or projected staffing levels in its organization or structure. The determination of a lack of work shall indicate the current or projected decrease in workload and whether the current or projected staffing levels of the appointing authority will be excessive.

4. Employees may be laid off as a result of abolishment of positions. As used in this division, "abolishment" means the deletion of a position or positions from the organization or structure of an appointing authority.

For purposes of this division, an appointing authority may abolish positions for any one or any combination of the following reasons: as a result of a reorganization for the efficient operation of the appointing authority, for reasons of economy, or for lack of work.

Reasons of economy permitting an appointing authority to abolish a position and to lay off the holder of that position under this division shall be determined at the time the appointing authority proposes to abolish the position. The reasons of economy shall be based on the appointing authority's estimated amount of savings with respect to salary, benefits, and other matters associated with the abolishment of the position, except that the reasons of economy associated with the position's abolishment instead may be based on the appointing authority's estimated amount of savings with respect to salary and benefits only, if:

- a. Either the appointing authority's operating appropriation has been reduced by an executive or legislative action, or the appointing authority has a current or projected deficiency in funding to maintain current or projected levels of staffing and operations; and

The following principles apply when a circumstance described in (division 4.a.) of this section would serve to authorize an appointing authority to abolish a position and to lay off the holder of the position under this division based on the appointing authority's estimated amount of savings with respect to salary and benefits only:

- The position's abolishment shall be done in good faith and not as a subterfuge for discipline.
  - If a circumstance affects a specific program only, the appointing authority may only abolish a position within that program.
  - If a circumstance does not affect a specific program only, the appointing authority may identify a position that it considers appropriate for abolishment based on the reasons of economy.
- b. Each appointing authority shall determine itself whether any position should be abolished. If an abolishment results in a reduction of the work force, the appointing authority shall follow the procedures for laying-off employees.

**Rule 8.           REDUCTIONS, SUSPENSION AND REMOVAL**

1. The tenure of every officer or employee in the classified service of the City shall be during good behavior and efficient service. No officer or employee shall be reduced in pay or position, fined, suspended, or removed, or have the officer's or employee's longevity reduced or eliminated, except as provided in the City's collective bargaining agreements, if applicable, and the City's Human Resources policies and procedures, and for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the officer's or employee's appointing authority, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. The denial of a one-time pay supplement or a bonus to an officer or employee is not a reduction in pay for purposes of this section.

As used in this division, "felony" means any of the following:

- a. A felony that is an offense of violence as defined in section 2901.01 of the Revised Code;
- b. A felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code;
- c. A felony under the laws of this or any other state or the United States that is a crime of moral turpitude;
- d. A felony involving dishonesty, fraud, or theft;
- e. A felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

2. In case of a reduction, a suspension of forty (40) or more work hours in the case of an employee exempt from the payment of overtime compensation, a suspension of twenty-four (24) or more work hours in the case of an employee required to be paid overtime compensation, a fine of forty (40) or more hours' pay in the case of an employee exempt from the payment of overtime compensation, a fine of twenty-four (24) or more hours' pay in the case of an employee required to be paid overtime compensation, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall serve the employee with a copy of the order of reduction, fine, suspension, or removal, which order shall state the reasons for the action.

Within ten business days following the date on which the order is served upon the employee, the employee, except as otherwise provided in this section, may file an appeal of the order in writing with the Commission. For purposes of this section, the date on which an order is served is the date of hand delivery of the order or the date of delivery of the order by certified United States mail, whichever occurs first. If an appeal is filed, the Commission forthwith shall notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within thirty days from and after its filing with



the Commission. The Commission, or trial board, may affirm, disaffirm, or modify the judgment of the appointing authority. However, in an appeal of a removal order based upon a violation of a last chance agreement, the Commission, or trial board, may only determine if the employee violated the agreement and thus affirm or disaffirm the judgment of the appointing authority.

In cases of removal or reduction in pay for disciplinary reasons, either the appointing authority or the officer or employee may appeal from the decision of the Commission to the Court of Common Pleas of Lorain County. A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this section.

- a. As used in this section, "last chance agreement" means an agreement signed by the appointing authority that describes the type of behavior or circumstances that, if it occurs, will automatically lead to removal of the officer or employee without the right of appeal to the Commission.

## **Rule 9. HEARINGS**

1. *Time of Hearing; Notifications.* Upon receipt, in writing, from an employee or officer in the classified service of the City, filed with the Commission within 10 business days from the receipt by the employee/officer of an order of removal, reduction in pay or position, or suspension, that is entitled to an appeal pursuant to these rules, the Commission shall set a time and place to hear such appeal and shall notify the appropriate appointing authority, as well as the employee and his/her attorney, if known, thereof. The Commission shall employ a court reporter for the hearing to be paid for by the Commission.
2. *Amendments to Orders.* Amendments to the orders of removal, reduction in pay or position or suspension may be made by the appointing authority at any time provided the employee and his/her attorney, if any, receive copies of the amended order at least ten (10) business days prior to the time set for the hearing as herein provided.
3. *Hearing Procedure.* In the hearing of such appeals the order or procedure shall be as follows:
  - a. The appointing authority taking action affecting the employee shall adduce his/her evidence in support of the charges and specifications.
  - b. The employee affected shall then produce such evidence as he/she may wish to present to refute such charges.
  - c. The appointing authority may offer evidence in rebuttal. The Commission may, in its discretion, hear arguments.

4. *Rules of Evidence; Representation by Counsel.* The production of evidence on the hearing of appeals and the Commission's decision thereof shall be governed in general by the rules of evidence, proof, and burden of proof applied by courts in civil cases. The appellant may be represented by counsel. The City Law Director or his/her designee shall prepare and present the case of the City.

5. *Resignation before Final Action.* The acceptance by an appointing authority of the written resignation of a person discharged, before the final action by the Commission, will be considered a withdrawal of the appeal. Notice of such written 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.

**Rule 10. WAIVER OF RULES**

1. *Vote Required.* In specific cases where in the judgment of the Commission it is in the interest of the public service, any rule hereby adopted may be waived by a majority vote of the Commission. Such action and the reasons therefore shall be entered in the minutes of the meeting.

**Rule 11. SAVING CLAUSE**

1. If any section or part of a section of these rules is held by any court to be invalid or unconstitutional, the same shall not invalidate or impair the validity or force and 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 is wholly or necessarily dependent for its operation upon the section or part of a section so held invalid or unconstitutional.

Adopted, Civil Service Commission, \_\_\_\_\_