

**CITY OF OBERLIN, OHIO**

**ORDINANCE No. 23-69 AC CMS**

AN ORDINANCE AMENDING THE CIVIL SERVICE RULES FOR THE CITY OF OBERLIN AS AN EMERGENCY MEASURE.

BE IT ORDAINED by the Council of the City of Oberlin, Lorain County, State of Ohio:

SECTION 1. That the Rules and Regulations of the Oberlin Civil Service Commission, as approved and recommended by the Oberlin Civil Service Commission on October 10, 2023, are hereby amended as shown in **Exhibit A** attached hereto and incorporated by reference.

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 actions 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 is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit: to provide for the efficient operation of the Oberlin Police Department, and provided that it is elevated to emergency status by the affirmative vote of at least five members of Council and receives the affirmative vote of at least five members of Council upon final passage, it shall go into full force and effect from and immediately after its passage; otherwise, it shall take effect on the earliest date allowed by law.

PASSED: 1<sup>st</sup> Reading: November 6, 2023

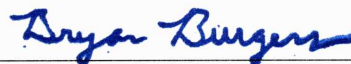
2<sup>nd</sup> Reading: November 20, 2023

3<sup>rd</sup> Reading: December 4, 2023

ATTEST:



BELINDA B. ANDERSON, MMC  
CLERK OF COUNCIL



BRYAN BURGESS  
PRESIDENT OF COUNCIL

POSTED: 12/05/2023

EFFECTIVE DATE: 12/04/2023

**ORDINANCE No. 23- 69 AC CMS  
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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 and shall exercise all such authority as may be conferred upon it by the Charter or by ordinance of Council.

**“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 identified in Section 157.01 of the Oberlin Codified Ordinances. 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/or 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.<sup>1</sup>

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<sup>1</sup> Part-time firefighters have been designated as being part of the Unclassified Service by Ordinance 14-67 AC CMS of Council

## **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;

The Chair may on his/her own initiative, and must, upon the request of any other member of the Commission or the staff liaison, call a special meeting of the Commission. 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.* A designated City staff member shall serve 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 Human Resources Department. Employment Applications for entrance examinations shall provide for the submission of the information as set forth in the Ohio Revised Code. The Commission and/or Human Resources Department 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 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.<sup>2</sup> Applicants must be U. S. citizens or have legally declared their intention to be a U. S. citizen.

5. *Reasonable Accommodation for Examinees.* Upon request, the City shall provide reasonable accommodation to an examinee with a disability unless the accommodation represents undue hardship or would require significant effort or cost to the City.

## **Rule 4. EXAMINATIONS**

1. *General.* Examinations may be held in such a manner 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 communication outlets and/ or on-line circulation and in such other places as may be deemed advisable not less than two weeks prior to such examinations.
- b. *Promotional Examination.* Except as is otherwise provided in these rules, notice of competitive promotional examinations shall be given by posting in conspicuous places in the departments whose employees may be interested

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<sup>2</sup> Effective January 17, 2015, all applications for part time firefighter positions will be received and processed through the Human Resources Department, as being part of Unclassified Service.

in the position or by individual communications to the employees eligible for such promotion. Such notice shall be given not less than thirty (30) days prior to the examination.

3. *Identity Of Examinees Concealed.* The identity of all persons taking competitive examinations shall be concealed until all the results 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. Examinations may test for education, training, manual dexterity, capacity, knowledge, physical and psychological fitness. Tests may be written, oral, physical, demonstration of skill, or an evaluation of training and experience. Applicants shall be required to pass all such tests and/or meet all requirements which the Commission specifies in an examination announcement.

b. *Promotional Examination.* Promotional examinations shall be competitive and shall be written, oral, or a physical demonstration of skill, and may include an evaluation of training and experience. 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. The Commission may 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 merit and fitness of the applicant's ability to discharge the duties of the position for which promotion is sought. Points shall be added to each applicant's final test score as provided in these rules.

**Police Department: Seniority** – One-fourth (1/4) point increments, up to five (5) points for each year of service with the police department.

**Education** – Education points shall be awarded by the Civil Service Commission for formal educational achievement based on supporting documentation provided by eligible candidates with submitted résumé. The value assigned to formal education is as follows:

Education Level: 30 college credit hours  
Points Awarded: 1

Education Level: Associate's Degree or 60 college credit hours  
Points Awarded: 2

Education Level: 90 college credit hours  
Points Awarded: 3

Education Level: Bachelor's Degree or 120 college credit hours  
Points Awarded: 4

Education Level: Master's Degree  
Points Awarded: 5

**SPECIAL NOTE:** A maximum of five (5) educational points may be awarded. Educational points will be awarded based on the highest level of achievement and will not be cumulative, (i.e. if a candidate has a Bachelor's Degree and a Master's Degree, he/she will only be awarded a total of five [5] points). College credit hours must be earned from an Accredited Institution of Higher Learning as listed in the Accredited Institutions of Post-Secondary Education, published by the American Council of Education and/or recognized by the US Department of Education.

Seniority and Education points will be added to the candidate's final total.

The applicant shall be responsible for submitting documentation evidencing eligibility for the award of preference points at the time of application, (e.g. certified copies of degrees, transcripts, certificates of completion, etc.) which shall be subject to verification by the appointing authority.

**Fire Department:**

*Promotional Examination Eligibility.* When a vacancy occurs in the promoted rank immediately above the rank of regular fire fighter, no person shall be eligible to take the examination unless the person has served forty-eight (48) months, not including the person's probationary period, in the rank of regular fire fighter, provided that, in those cases when there are less than two (2) persons in the rank of regular fire fighter who have served forty-eight (48) months, not including the person's probationary period, in that rank and who are willing to take the examination, this service requirement does not apply.

When a vacancy occurs in a promoted rank, other than the promoted rank immediately above the rank of regular fire fighter, no person shall be eligible to take the examination unless the person has served twelve (12) months in the rank from which the promotion is to be made, provided that, in those cases when there are less than two (2) persons in that next lower rank who have served twelve (12) months in that rank and who are willing to take the examination, the twelve-month service requirement shall not apply. If the non-application of the twelve-month service requirement to persons in the next lower rank does not produce two (2) persons eligible and willing to compete, the same method shall be followed by going to successively lower ranks until two (2) or more persons are eligible and willing to compete in an examination for the vacancy. If this process of searching successively

lower ranks reaches the rank of regular fire fighter, the forty-eight-month service requirement applies, provided that, in those cases when that application still fails to produce two persons who are eligible and willing to compete, the forty-eight-month service requirement does not apply. If two (2) persons are unwilling to compete for the examination, the one (1) person who is willing to compete shall be appointed to fill the vacancy after passing a qualifying examination.

**Seniority** – Credit for seniority shall be given as follows: one (1) point shall be added for each of the first four (4) years of service, and six-tenths (6/10) of a point shall be added for each year for the next ten (10) years of service. In computing the credit for seniority, half (1/2) of the credit specified in this paragraph shall be given for a half (1/2) year of service. Credit for seniority shall be based only on service in the municipal civil service and the service provided for in the next succeeding paragraph.

When service in the fire department is interrupted by service in the armed forces of the United States, seniority credit shall be granted in promotional examinations for the time so served. No additional credit for military service shall be allowed in promotional examinations. **Maximum Points: 10**

**Education** – Preference credit shall be added to the passing score (70% or greater) of candidates as indicated from **Table 4b**, for the highest college degree earned, certifications, and job specific training in coordination with the job description. The credit schedule shall be approved by the Commission and updated only when updating the job descriptions of fire department positions in order to support a positive succession plan. **Maximum Points: 5**

The applicant shall be responsible for submitting documentation evidencing eligibility for the award of preference points at the time of application, (e.g. certified copies of degrees, transcripts, certificates of completion, etc.) which shall be subject to verification.

**Table 4b**

<b>Degree</b>	<b>Points</b>
Associate	1
Associate - Fire Science / Public Safety or related	2
Bachelor	3
Bachelor - Fire Science / Public Safety or related	4
Master	4
Master - Fire Science/Public Safety or related	5
<b>Certifications</b>	<b>Points</b>
Ohio Firefighter II	1
Ohio Fire Safety Inspector	1
Ohio Fire Instructor	1
Ohio EMS Instructor	1

Ohio Paramedic	2
Basic Fire Investigator	0.5
Advance Fire Investigator	0.5
Fire Officer I	0.5
Fire Officer II	0.5
Fire Officer III	0.5
Fire Officer IV	0.5
Haz-Mat Tech	0.5
BlueCard	0.5

*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. Examination results shall conform to applicable laws concerning confidentiality. If appropriate, such examinations shall be conducted after a conditional offer of employment has been made.

5. *Written Examination.*

- a. *Internally Administered Exams:* Applicants shall be required to present photo identification prior to taking an exam. All exams and papers submitted by the applicants shall contain their identification number only. 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. No applicant in any examination shall be given a longer time on any subject than prescribed by the Commission when examination questions are approved.
- b. In lieu of an internally administered exam the Commission may designate a third-party testing agency to administer an examination. The Commission or the testing agency shall advise all applicants of instructions and rules for the conduct of the written examination.

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

7. *Grading of Examinations.*

- a. The total grade attainable in each examination shall be 100%. Each examination section, shall be graded individually and assigned a percentage score not to exceed one hundred percent (100%) which will be multiplied by the relative weights assigned for the section totals. Both sections total will

then be added together. An applicant who achieves a score of 70% or above shall be determined to have achieved a passing score and shall be eligible for extra points/preference credits in accordance with these Rules. In cases where a percentage other than 70% is determined by the Commission to constitute a passing score, such determination shall be made prior to the time of scheduling the examination and shall be included in the notice of examination.

- b. *Notification of Grade/Opportunity to Appeal.* Each participant who completes an examination shall be notified of his/her grade by the Human Resources Director or Administrator as the case may be, and/or testing agency. Any participant who considers his or her examination papers to have been erroneously graded shall have the right to appeal to the Commission. Notice of such appeal shall be made not later than seven (7) days after notification. The Commission shall hear such appeal after notice to the participant who shall have opportunity to present evidence and testimony in support of such appeal. The decision of the Commission shall be final. In the event the Commission finds an error in the grading of the examination, it shall revise the participant's grade accordingly. Upon the decision of the Commission, the Commission shall establish an eligible list which shall be posted in accordance with the Commission rules. No grades shall be changed after the posting of the eligible list except for correction of any clerical errors which may occur.

8. *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. *Establishment.* The Commission shall prepare and keep open for public inspection, 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' applications will be used to establish the ranking.

2. *Duration.* The term of eligibility of the list based upon examination may be fixed by the Commission for at least one (1), but not more than two (2) years and in the case of the Fire Department, a term of two (2) years is mandated.

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 (6) 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 eligible for appointment. The Commission shall make reasonable efforts to notify such person and the reason for ineligibility.

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. *Original Appointments.***

#### **Police Department:**

When a vacancy or opening for original appointment in the classified service occurs within the Police Department, the Appointing Authority shall notify the Commission of such vacancy and the Commission shall post a notice within the Police Department for seven (7) work days. Current part-time Patrol Officers within the Department may submit an application for consideration for the vacant position. At the end of the seven days, the Appointing Authority may select an applicant to fill the vacancy. If no applicant is selected or there are additional vacancies the Appointing Authority shall notify the Commission of such vacancy and the method(s) by which the appointment shall be made:

- a. *Civil Service Examination:* As described in the Civil Service Commission Rules & Regulations.
- b. *Lateral Transfer:* Applicants for lateral transfer and by current part-time Patrol Officers within the Department shall submit an employment application to the Department of Human Resources. Applicants must meet all the minimum requirements of the Civil Service Commission Rules and Regulations. In addition:
  - i. An applicant must be an OPOTA certified peace officer or have the ability to obtain OPOTA certification within the first year of

appointment, have completed probation, and be currently working or have worked within the past 12 months as a certified peace officer in the jurisdiction in which he or she is or has worked.

- ii. An applicant for a Lateral Transfer shall be subject to a post offer, pre-employment drug test and a background investigation, including information regarding prior employment.

c. *Applicant Assessment:* Applications submitted by current part-time Patrol Officers within the Department and lateral transfers shall be exempt from the Civil Service Examination. In lieu of such examination, all applicants shall be reviewed by a panel appointed by the Commission. The panel shall conduct interviews of all applicants, which shall include an assessment of the applicant's past performance, the ability of the applicant to perform the duties of the position, and any other factors that the panel deems to be relevant to the determination of the applicant's merit and fitness for the position. The conduct and content of the review and interview process shall be consistent with regard to all applicants for the position. The panel shall make and maintain a written record of the interviews and materials reviewed by it.

**Police and Fire Departments:**

*Civil Service Examination:* Where a position in the classified service is to be filled other than by promotion, transfer or reduction, the appointing authority shall request the Commission to certify the names and addresses of the ten candidates standing highest on the eligibility list for the class or grade for which the appointment is to be made 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, appointments from that list shall not be mandatory. At the request of the appointing authority, the Commission may certify an additional name for each person removed from the eligible list following certification.

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, which 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.

2. *Promotional Appointments.* If a vacancy occurs in a position above the rank of patrol officer in the Police Department or in a promoted rank in a Fire Department, and there is no eligibility list for such rank, the Commission shall hold a competitive promotional examination. After the examination has been held and an eligibility list established, the Commission shall certify to the appointing authority the name of the person on the list receiving the highest rating. Upon the certification, the appointing authority shall appoint the person so certified from the date of the certification. If there is a list, the Commission shall, when there is a vacancy, immediately certify the name of the person on the list having the highest rating, and the appointing authority shall appoint that person within thirty (30) days from the date of the certification.

3. All original and promotional appointments shall be for a probationary period, not more than one (1) year, as determined by the appointing authority. Original and promotional appointments in the Police Department and in the Fire Department shall be for a probationary period of one (1) 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 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:

- i. The position’s abolishment shall be done in good faith and not as a subterfuge for discipline.

- ii. If a circumstance affects a specific program only, the appointing authority may only abolish a position within that program.
  - iii. 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 (10) 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, 11/02/2011

Adopted, Oberlin City Council, 12/05/2011

Adopted, Civil Service Commission, 06/04/2014

Adopted, Oberlin City Council, 10/06/2014

Adopted, Civil Service Commission, 06/14/2017

Adopted, Oberlin City Council, 07/03/2017