



**RULES OF THE**

**MUNICIPAL CIVIL SERVICE**

**COMMISSION**

**OF THE**

**CITY OF DEFIANCE, OHIO**

July 1, 2009

PREPARED BY:

Downes, Hurst & Fishel LLP  
400 S. Fifth St., Suite 200  
Columbus, Ohio 43215-5492

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## **PREAMBLE**

The following set of rules and regulations is hereby adopted in accordance with the authority conferred upon the Municipal Civil Service Commission of the City of Defiance by Section 10 of Article XV of the Constitution of the State of Ohio, the Charter and Ordinances of the City of Defiance, and by Section 124.40 of the Ohio Revised Code.

These rules shall be applicable to all Civil Service matters within the jurisdiction of the Municipal Civil Service Commission of the City of Defiance except to the extent these rules have been superseded by the terms of a valid Collective Bargaining Agreement between the City and a certified bargaining representative.

## **RULE 10.00** **DEFINITION OF TERMS**

Definitions. The several terms herein specified whenever used in these Rules and Regulations of the Defiance Municipal Civil Service Commission or in the Administration of the Civil Service laws shall be construed as follows:

1. “Appointing Authority.” The Mayor or other officer, board or commission having the power of appointment to or removal from any position in the classified service.
2. “Assembled Examination.” Examinations given to a number of candidates gathered together in one or more designated centers.
3. “Certification.” Act of supplying names from an official eligible list (and recording thereon) to the Appointing Authority for purposes of employment selection or layoff.
4. “City.” The City of Defiance and the City of Defiance School District.
5. “Civil Service.” Includes all offices and positions of trust or employment in the service of the City.
6. “Class.” Is used to designate one or more positions sufficiently distinct from all other positions in duties, responsibilities, and qualifications required to warrant a separate title.
7. “Classification.” Is a term used to designate the process by which the proper title and level for each position is determined.
8. “Classified Service.” All persons in the employ of the City not specifically included in the unclassified service. Classified service status shall be determined as provided for in the Charter and Ordinances of the City or Chapter 124 of the Ohio Revised Code.

9. "Commission" The Municipal Civil Service Commission of the City of Defiance.
10. "Competitive Examination." An examination given for the purpose of determining the relative rank of those qualifying and establishing an eligible list arranged in the order of merit.
11. "Continuous Examination." An examination, either competitive or non-competitive where applications are taken on a continuous basis and examinations are given as after and necessary to sustain the eligibility list. Where the examination is competitive, those qualifying will have their names integrated into the existing list according to their grades.
12. "Day." A calendar day unless otherwise specified.
13. "Demotion." The movement of an employee from a position in one class to a position in another class having a lower maximum salary rate due to disciplinary reasons, incapacity to perform the work, inefficiency, or unsatisfactory work performance or by request of the employee.
14. "Eligible." An applicant for appointment or promotion to a classification who has passed an examination and met other requirements for the classification, and who is willing to accept appointment.
15. "Eligible List." A list of names of persons found qualified either through examination or re-employment procedure for the purpose of filling vacancies in the classified service.
16. "Eligible Register." The composite official service record of all current eligible and re-employment lists.
17. "Employee." Any person holding a position subject to appointment, removal, promotion or reduction by an appointing - authority.
18. "Employee Status." A term utilized to describe an employee's title, salary range, and type of employment (temporary, seasonal, permanent, etc.)
19. "Examination." Any exercise, test, simulation, interview, or procedure which serves to provide an evaluation of an individual's qualifications or fitness for a classification or a particular position.
20. "Examiner." An authorized employee or representative of the Commission who is responsible for carrying out designated functions of Commission activities.

20-A. "Intern." A temporary employee in the unclassified service who is enrolled in an accredited University, College, Community College, High School or Vocational

School or is enrolled in an occupational training or re-training program licensed or financially supported by the United States, the State of Ohio or a political subdivision of the State of Ohio and is appointed to a position that is related to the individual's field of study for the purpose of developing job skills.

21. "Municipal Service." Refers to positions in the classified service of the City.
22. "New Position." A position created by proper authority because of authorized additions to an organization unit, of a position not previously existent or through a substantial authorized change in class.
23. "Non-Competitive Examination." An examination either open or promotional, given to determine those qualified to fill appointments to positions requiring peculiar and exceptional qualifications of a scientific, professional, educational or managerial character or positions where it is impracticable to develop and administer competitive examinations. The resultant eligible list consists of an alphabetical listing of successful examinees, from which any one may be selected.
24. "Open Competitive Examination." An examination open to all persons, whether employed by the City or not, who meet the qualifications and comply with the prescribed requirements for admission thereto.
25. "Permanent Employee." Any employee in the classified service, who, following certification, has completed the applicable probationary period or six months of continuous service, whichever is longer, and occupies a duly authorized position involving full-time year around service. A "part-time, permanent employee" has met all the same qualifications, however, these employees customarily work less than thirty-two hours per week. (Modified Oct. 2013)
26. "Position." When used by itself, shall refer to any specific office, employment, or job calling for the performance of certain duties, either full-time or part-time and for the exercise of certain responsibilities by one individual.
27. "Probationary Period." The probationary period for all positions in the Classified Civil Service shall be for a period of six months unless otherwise set forth in these rules.
28. "Promotion." A vertical movement from one class to another class, involving a change in salary, grade, and rate.
29. "Promotional Competitive Examination." A promotional competitive examination is one which is open only to employees who meet the qualifications and eligibility set forth, and given for the purpose of establishment of an eligible list.
30. "Rules." Shall mean the rules of the Defiance Civil Service Commission.

31. "Seasonal Employees." Any employee whose services are required only during certain parts of each year.
32. "Seniority." Shall mean total continuous City service.
33. "School Service." Those positions in the classified service of the Defiance City School District.
34. "Temporary Employee." An employee in the unclassified service who is appointed for a specified period, for a special project, as an intern or one whose is replacing a permanent employee on leave.
35. "Transfer." The movement of an employee from one class to a like or related class not involving an increase in salary grade or salary rate.
36. "Nonassembled Examination." Examination in which applicants are subject only to general controls as to the manner in which required material is submitted to the examiner (s) for review and rating and usually not involving the calling of applicants together.
37. "Unclassified Service." Those positions set forth in the Charter and Ordinances of the City or paragraph (A) of Section 124.11 of the Revised Code as applied to the Civil Service of the City. Positions in the unclassified service shall be exempt from all civil service examinations and requirements set forth in Sections 124.01 to 124.99 of the Revised Code.
38. "Uniformed Service." Shall have the same meaning as in the "Uniformed Services Employment and Reemployment Rights Act of 1994," 38 U.S.C.A. 4303, which is defined as the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty.
39. "Service in the Uniformed Service." Shall have the same meaning as in the "Uniformed Services Employment and Reemployment Rights Act of 1994," 38 U.S.C.A. 4303, which is defined as the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training. Inactive duty for training, and full-time National Guard duty.
40. "Weights." As used in connection with examinations indicate the relative importance of the subjects or parts of the examination.

## **RULE 20.00**

### **ADMINISTRATION**

**Section 20.01 – Officers of the Commission:** The Municipal Civil Service Commission of the City of Defiance shall be composed of three (3) persons who shall be appointed and serve in the manner provided for in Section 124.40 of the Revised Code.

It shall be the duty of each member of the Commission to attend all meetings of the Commission and to devote as much time as is necessary to the management of the business and affairs of the Commission.

The Commission shall prescribe, amend, administer and enforce the rules and regulations herein prescribed relative to Civil Service in the City consistent with the Civil Service Laws of the State of Ohio the Charter and Ordinances of the City of Defiance, and where the City elects to exercise home rule as it authorized to do so.

**Section 20.02 – Meetings of the Commission: Quorum.** The Chairman shall be the Commission member with the longest continuous tenure as a Commission member. The Co-Chairman shall be the Commission member with the second longest continuous tenure as a Commission member. It shall be the duty of the Chairman to call such meetings of the Commission as are necessary to transact the business and affairs of the Commission, to preside at all meetings of the Commission, to sign the minutes of all actions taken by the Commission, and to sign all warrants or orders for the payment of money from the accounts and funds of the Commission.

The Chairman may on his or her own initiative, and shall, upon the request of the other two members of the Commission, call a special meeting of the Commission to be held not later than ten (10) days from the date of notice of such meeting. In the absence of the Chairman, the Co-Chairman shall act as Chairman. Two members of the Commission shall constitute a quorum at any meeting of the Commission; and it shall require the affirmative vote of at least two members to adopt any motion or resolution.

All meetings of the Commission are open to the public except as set forth in O.R.C. 121.22. An executive session may be held after a majority of the members, by roll call vote, have approved such action for the purposes set forth in paragraph (G) of section 121.22 of the Revised Code.

**Section 20.03 – Secretary:** The Commission shall employ a suitable person to act as Secretary of the Commission.

The Secretary shall attend all the meetings of the Commission and keep the minutes thereof; shall keep in the form of minutes a record of the official actions of the Commission; shall be at the office of the Commission during the prescribed hours that such office is open; shall accurately and properly keep all the records of the Commission; shall keep all files in proper order; shall prepare and deliver or cause to be delivered, notices and other communications ordered by the Commission; shall properly furnish appointing authorities

with eligible lists; shall maintain an official roster; shall certify payrolls; shall handle such correspondence as the Commission shall determine; shall, in conjunction with the Chairman, sign all warrants or orders for the payment of money on behalf of the Commission; and shall perform such other duties as may be required by the Commission.

The order of business for meetings of the Commission shall be:

- a) Roll Call
- b) Disposition of Unapproved Minutes
- c) Reports
- d) Unfinished Business
- e) New Business
- f) Adjournment

Section 20.04 – Other Employees: The Commission shall appoint other professional and clerical employees as necessary to carry out the merit system principles of Civil Service and such employees shall be in the classified service of the City.

Section 20.05 – Special Examiners: The Commission may designate persons in or out of the Civil Service to serve as examiners or assistant examiners under its direction, with such compensation as may be agreed upon between the person so employed and the Commission, or without compensation.

Section 20.06 – Minutes: The minutes of the Commission shall record the following matters:

- a) All appointments and status changes.
- b) Temporary promotions and assignments of employees to work other than that embraced by their classification.
- c) Appeals from dismissal, demotion or suspension with the action of the Commission thereon.
- d) Reinstatement.
- e) Replacement of names on the removal of names from an eligible list or a layoff list.
- f) Changes in the classification plan.
- g) Reclassification or reallocation of individual employees.
- h) Approval of and changes in examination schedules.
- i) Subjects and weights of examinations.
- j) Appointments of special examiners.
- k) Transfers between departments or divisions.
- l) Exemptions from competitive examinations in the case of special or exceptional appointments.
- m) Any other action or report directed to be recorded by the Commission.

Section 20.07 – Official Roster: The Commission shall cause to be prepared and maintained an official roster showing the names, titles, status and other data as directed by the Commission of all persons employed in the Civil Service of the City.

## **RULE 30.00**

### **CLASSIFICATION**

**Section 30.01 – Classification Plan:** A classification plan for the employees in the classified service shall be adopted and maintained by the Commission, which plan shall provide for the standardization and classification of all positions in the classified service. All of the positions in the classified service shall be so grouped and arranged that each class shall consist of those positions similar in duties, responsibilities and authority such that the same descriptive title may be used to designate each position allocated to the class. The same requirements of education, experience, capacity, knowledge, proficiency, ability and other qualifications should be required of each incumbent such that the same schedule of compensation may apply with equity.

**Section 30.02 – Conformance of Class Duties:** No person shall be assigned any title not appropriate to the duties to be performed. In positions encompassing duties of comparable levels of difficulty and requiring similar qualifications, the appropriate title will reflect the preponderant duties. In positions encompassing related duties of substantially varying levels of difficulty, the appropriate titling shall reflect the most difficult duties required if such duties are performed to a substantial degree.

The cooperation of each department head and division head is essential for maintaining the integrity of the classification plan by limiting employees to the performance of duties appropriate to their class, or notifying the Commission of the need for the assignment of inappropriate duties.

**Section 30.03 – Reclassification:** It shall be the duty of the Commission to study new positions or existing positions in which there is cause to question the titling. The Commission shall amend as necessary the official classification to reflect the results of such studies. New position descriptions and /or class specification are subject to approval of the Commission. The City Council may require the Commission to review any or all classification assignments.

**Section 30.04 – Classification Audit:**

Any employee may request a review of the classification of his position for the purposes of determining whether the position is properly classified. The Commission shall give proper consideration to such request.

**RULE 40.00**  
**APPLICATION FOR EXAMINATION**

**Section 40.01 – Notice of Examination:** The announcement by the Commission of a competitive entrance examination shall be officially advertised in the Defiance Crescent News and posted on the City Hall bulletin boards and shall invite qualified persons to make application for admission to the examination not less than two (2) weeks prior to such examination. Such notice shall contain a clear statement showing the following:

- a) The title of the position for which the examination is to be held.
- b) The duties of the position.
- c) The minimum qualification of education and experience required.
- d) The designation of which classes shall be eligible to participate if the examination is promotional.
- e) Any age limits and physical requirements (when required by State law).
- f) The salary ranges for the position.
- g) The last day and hour on which applications will be received. Applications for continuous examinations will be accepted continuously unless so noted on the examination announcement.
- h) The place where applications may be secured and place where they must be filed, and any other information that may be deemed necessary.
- i) Licenses or certifications required.

If the examination is to be promotional, notices shall be distributed and conspicuously posted at least two (2) weeks in advance of the examination date in each department in which there are employees eligible to apply.

**Section 40.02 – Additional Advertising:** Additional steps as may be deemed advisable by the Commission shall be taken to secure a maximum number of qualified applicants for each examination.

**Section 40.03 – Age Limits:** No applicant shall be under the minimum legal age for employment as established by law at the time of the examination. Age limits designated by State law to secure persons physically and otherwise qualified for certain classes of employment, such as within the Police and Fire Departments, may be fixed by the Commission for any examination except as otherwise provided by City ordinance.

**Section 40.04 – Citizenship and Residence:** The Commission shall determine and state in the announcement of each examination, whether applicants shall be restricted to citizens and/or residents of the City, the County, the State, or the United States. Such restriction will only be enforced when such restriction serves a compelling interest of the City. Before including such a restriction in any announcement of examination, the Commission or its designee will secure a written opinion from the Law Director regarding whether the position to be filled compels such restrictions.

Section 40.05 – Applications: Applications for admission to any examination shall be made upon application forms prepared and approved by the Commission. All applications shall be legibly printed or written and applicants shall state under oath or affirmation all pertinent facts on the following subjects:

- a) Name, address, and date of birth
- b) Military service
- c) Skills
- d) Citizenship
- e) Previous employment
- f) Education
- g) References, three (3) persons or business acquaintances, not relatives, public office holders, or officers in a political organization
- h) Such other information affecting the qualification of the applicant for admission to the examination as may be required of all such applicants by the Commission.

Section 40.06 – Filing of Application: Applications must be obtained and filed at the office of the Commission, or the designee of the Commission. Mailed applications shall be accepted only if received by the Commission before the time fixed in the announcement as the last time for filing. Although not required, return receipt in order to insure timely delivery is recommended. Personal service is also permitted. A receipt should be requested by such applicant.

Section 40.07 – Rejection of Applications: All applications for any examination, whether entrance, open or promotional, shall be reviewed by the Commission or its designee and may be rejected as set forth below.

Applications may be rejected, if the applicant has not met the qualifications specified on the announcement by the date of the examination, or has intentionally made false statements on an application or has otherwise submitted a defective or incomplete application. Applications may be rejected for any job-related just or reasonable cause, as determined by the Commission. The Commission may, when deemed appropriate, investigate the character and fitness of an applicant which may result in application rejection.

Upon rejection of any application, the applicant shall be promptly notified of such fact and the reason therefore, whereupon he may, within three (3) working days after receipt of such notice, show cause, in writing, why such application should not have been rejected. If any such inquiry from a rejection is pending at the time an examination is scheduled to be held, the applicant shall be allowed to take the examination pending decision in such inquiry.

If the Commission finds the rejection justified, the examination paper shall not be included among those to be rated.

Section 40.08 – Admission Cards: When examination admittance cards are used, the applicant shall bring this card to the examination and a person who does not present such a card shall not be admitted except by authority of the examiner-in-charge.

Section 40.09 – Fingerprints: The Commission may cause fingerprints of applicants for certain responsible positions to be taken and forwarded for processing.

Section 40.10 – Waiver of Confidentiality: The Commission may request a waiver from any employee or applicant so that the Commission may obtain additional information or references.

**RULE 50.00**  
**EXAMINATION, VETERANS PREFERENCE**

**Section 50.01 – Character of Examinations:** Examinations shall be practical and impartial and shall relate to those matters which will fairly test the relative capacity of the persons examined to discharge the duties of the position to which appointment is sought.

**Section 50.02 – Types and Methods of Examination:** The Commission shall determine and state in the announcement of each examination whether it will be competitive or non-competitive, recruitment or promotional, continuous or any combination thereof.

Wherever it is determined that applicants are not available in sufficient numbers to justify holding assembled examinations, examinations for such classes may be administered on a continuous basis. Continuous examinations may be held without re-advertisement.

**Section 50.02 – Parts of Examination:** The Commission shall determine the parts or subjects into which each examination shall be divided and the weight to be assigned to each part. The parts which shall be recognized may include: structured interviews, assessment centers, work simulations, written tests, oral tests, performance tests, evaluation of education and experience, evaluation of attendance, performance and conduct, physical examinations, medical examinations, and other such tests as the Commission deems appropriate.

No oral or written examination shall be held except in the presence of the examiner(s) duly assigned by the Commission.

Written tests may be either objective or essay type, to demonstrate the knowledge required in the position and to indicate the applicant's general educational attainment.

- a) Performance tests shall include, when appropriate, such tests of manual ability and skill as will determine the competence of the competitor to do the work.
- b) Education and experience shall be rated by the examiner from the statements contained in the application and from such other sources as may be required.
- c) Physical examinations, when required, may include tests of bodily condition, muscular strength, agility and physical fitness to perform the work of the position. Failure to reach satisfactory standards in this part of an examination shall cause the rejection of a candidate without regard to the grade attained on other parts of the examination.
- d) Medical and/or mental examinations as determined by the Commission, must be satisfactorily passed by applicants. Failure to reach a satisfactory standard in this part of the examination shall cause the rejection of the candidate without regard to the grade (s) attained on other parts of the examination.

**Section 50.04 – Licenses Required:** Every person applying for examination for any position, the duties of which require a certificate or licenses of any agency operating under the authority of any ordinance of the City, the State or the United States, shall present to

the Commission at the time of the application, their certificate or license or a certified copy thereof. When the Commission is unable to secure sufficient applicants with the required certifications or licenses for examinations, the Commission may, in its sole discretion, permit otherwise qualified applicants who do not have said licenses or certifications to take examinations and, if such applicants pass the examination and are otherwise eligible, the Commission may certify such applicants with the requirement that such applicants obtain the required certification or license within a period of time designated by the Commission.

**Section 50.05 – Scheduling Examinations:** The time and place of examinations shall be determined by the Commission or its designee. Examinations will be scheduled and eligible lists established within the time limitations contained in the Ohio Revised Code when a vacancy or formal establishment of a new position occurs.

**Section 50.06 – Postponement and Cancellation:** The Commission may postpone or cancel any examination because of an inadequate number of applicants or for any other just and sufficient cause. Proper notice shall be given to all applicants when an examination is postponed or cancelled and such additional announcements, reannouncements and publications as needed shall be issued to notify the public.

**Section 50.07 – Identity of Candidates:** The identity of all persons taking a competitive assembled written test shall be canceled by use of an identification number which shall be used on all examination papers. Any papers bearing any identifying marks may be rejected and the candidate notified. Names of applicants shall not be made of public prior to the examination without the permission of the Commission.

**Section 50.08 – Conduct of Examinations:** All examinations shall be conducted under the direction of the Commission by members of its staff or by special examiners designated by the Commission. No applicant shall be admitted to an examination more than thirty (30) minutes after the advertised time for beginning an examination, or after any applicant competing in any such examination has completed his work and left the examination room.

**Section 50.09 – Method of Rating:** Examinations shall be job-related 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 sought and shall, when appropriate, include test of manual skill. The Commission shall prescribe the subjects of each examination and the relative weights to be attached thereto provided that any such determination must be attached thereto and must have been adopted prior to the date of such examinations.

The total grade attainable in each examination, except for special credits such as military credit or seniority credit, shall be 100. In examinations composed of more than one part, the method of scoring shall be:

- a) Each part of the examination shall be separately rated and the proficiency of each competitor determined on the basis of a scale of 100 maximum possible attainment.

- b) Each part shall be assigned a weight by the Commission which shall be based on the relative value of the part to that of the entire examination expressed in terms of tenths of the total.
- c) The earned grade of each examinee in each part of the examination shall be multiplied by the weight assigned to the part and the sum of the totals shall be the earned grade for the participant.

Section 50.10 – Promotional Examinations (Non-Uniform Services): Promotion to vacancies in positions in the classified service of the City of Defiance shall be accomplished, so far as practicable, by competitive test, , and seniority from among persons already employed in such lower classes of positions as the Commission may determine.

The provisions of this section shall not be applicable to seasonal, temporary, or intermittent employees. However, permanent part-time employees shall be eligible for promotion.

Section 50.11 – Promotion by Nomination (Non- Uniform Services): If there are not at least two (2) employees who are qualified to compete for a promotion, or in case of multiple vacancies, at least the maximum number available pursuant to Section 60.09, and where an examination would be superfluous, the Commission, with the consent of the Appointing Authority may authorize the promotion of an employee (s) nominated; provided, however, that the Commission shall first determine that such employee (s) are qualified for the duties of the higher position (s) and certify those employees found qualified. Such nomination and approval by the Commission and recording in the minutes shall be equivalent to certification from an eligible list by the Commission and appointment by the Appointing Authority. The Commission is to determine whether a vacancy is to be filled by promotional or open competitive exam and only vacancies having a classification above the lowest grade in a series may be filled in this manner.

Section 50.12 – Promotional Examinations (Police Service): Promotion of policemen above the rank of patrol officer shall be in accordance with the Ohio Revised Code, Section 124.44. “Prior service” for the purpose of this section shall mean total service in the Defiance Police Division.

No person shall be examined or promoted for any position above the rank of patrol officer unless he has at least twelve months of prior service in the next lower rank.

All promotional examinations for the Division of Police ranks shall be conducted, graded, and processes in the same manner as other promotional examinations.

No competitive promotional examination shall be held unless there are at least two (2) persons eligible to compete. Whenever the Civil Service Commission determines that there are less than two (2) persons holding positions in the rank next lower than the position to be filled, who are eligible and willing to compete, the Commission shall allow the persons holding positions in the then next lower rank who are eligible to compete with the persons holding positions in the rank lower than the position to be filled.

Section 50.13 – Promotional Examinations (Fire Service): Fire service promotion in the Fire Department shall be in accordance with the provisions of Section 124.45 of the Ohio Revised Code.

Furthermore, no person shall be eligible to take the examination for a vacancy in the rank immediately above the rank of regular fire fighter unless the person has served at least forty-eight (48) months not including their probationary period, in the rank of regular fire fighter, provided that in those cases where there are less than two (2) persons in the rank of regular fire fighter who have served forty-eight (48) months, not including their probationary period, in that rank and who are willing to take the examination, this service requirement does not apply.

Effective January 1, 2023 no person shall be eligible to sit for a Lieutenants Promotional Examination if they have not successfully completed the classes: Preparations for Initial Company Operations (PICO) 12 hours, Decision Making for Initial Company Operations (DMICO) 14 hours, and Strategy and Tactics for Initial Company Operations (STICO) 12 hours, prior to the promotional testing date.

Effective January 1, 2023 no person shall be eligible to sit for a Captains Promotional Examination if they have not completed the classes required for Lieutenants testing stated above and Incident Safety Officer (NFPA 1521) 40 hours, prior to the promotional testing date.

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 next lower rank, provided that in those cases where there are less than two (2) persons in the next lower rank who have served twelve (12) months in that rank and who are willing to take the examination, this service requirement does not apply. If the non-application of the 12 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 or more persons are eligible and willing to compete in an examination for the vacancy. If this process of searching successively lower ranks reached the rank of regular fire fighter, the provisions of Section 124.45 of the Ohio Revised Code applies.

Section 50.14 – Seniority Credit in Promotional Examinations: Applicants taking promotional examinations who receive a passing grade shall receive credit for seniority, which shall be determined as follows:

One per cent of the total grade attainable in such examination for each full year of the first four years of service, and six tenths per cent of such total grade for each full year of the next ten years of service. (Total grade attainable shall be 100% or a perfect score in all phases of the examination exclusive of additional credits such as efficiency ad seniority.)

Section 50.15 – Efficiency Credits: The Commission does not offer efficiency credits for examinations.

Section 50.16 – Credit for Service in the Uniformed Services: When proper proof of acceptable service in the uniformed service, as defined in these rules and as further described in section 124.23 of the Revised Code, is presented to the Commission and such applicant is otherwise eligible and has received a passing grade as determined by the Commission in any regular entrance examination, the applicant shall be granted additional credit of twenty per cent higher in view of the above mentioned service.

Requests for this additional credit for service in the uniformed services, together with an honorable discharge or other proof of satisfactory service, shall be submitted to the Commission with the application for the examination. Credit for service in the uniformed service will not be given if the request for such credit is received by the Commission after an eligible list for any examination has been established unless the applicant demonstrates excusable neglect, as determined by the Commission, for failure to provide proof of service in the uniformed services earlier.

Section 50.18 – Physical Examination: Whenever in the 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, either before admission to the examination, before being placed on an appropriate eligible list, or before certification for appointment.

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 applicants' physical condition. The results of physical examinations including physician's certificates shall be used solely to determine an applicant's eligibility to take an examination - and eligibility for appointment after examination and shall not become a part of the applicant's grade resulting from the examination and such results shall be final.

Section 50.19 – Examination Papers: The detailed score of the successful candidates shall be kept on file by the Commission so long as the eligible list created from the examination remains in effect. These records may be inspected at the office of the Commission by any Appointing Authority to whom a certification has been made from the list.

The papers of unsuccessful candidates may be destroyed after two (2) years from the date of posting of any such list. All examination papers of successful candidates shall be kept on file for two (2) years following the examination unless the source of said examination requires the test being returned.

Section 50.20 – Promulgation of Examinations: No examination shall be deemed to have been completed until the markings and results have been determined and the Commission has promulgated the same. After reviewing the results of an examination and before promulgation, if found to contain errors, fraud or other impropriety, the Commission may reject it and order another examination held. No person taking an examination shall acquire any rights whatsoever until the Commission has examined and promulgated the list.

Section 50.21 – Inspection of Examination Papers: The examination papers written by an applicant shall be open to inspection by the applicant or their authorized agent for a period of thirty (30) days after the date of promulgation of the eligible list. Applicants shall be informed of their separate ratings upon request. Examination papers of applicants are not subject to inspection by the public, and references and oral rating sheets shall be deemed confidential and shall not be open to inspection by the applicant nor the public. The purpose of the inspection privilege given the candidates is to assure them that their papers have been duly considered for grading and not to review and question the examination content.

## **RULE 60.00**

### **ELIGIBLE LISTS, REQUISITIONS, CERTIFICATIONS, APPOINTMENTS**

Section 60.01 – Eligible List: The names of those persons who attain a passing grade in competitive examinations shall be arranged in a list of descending order of the grade received. An eligible list or a non-competitive examination will consist of a listing of qualified applicants in order of date and time of filing of their applications. After approval of the Commission, these lists shall constitute the eligible lists for positions in the class indicated by its title. And shall be valid for twelve (12) months except as otherwise provided in Sections 60.03 and 60.04 of these rules.

Whenever it becomes necessary to hold subsequent or continuous recruitment examinations, the Commission may consolidate existing lists for the same class by rearranging the eligible names therein according to their grades. Applicants participating in non-competitive continuous examinations who are deemed qualified will have their names added to the existing list in order of date and time of filing of their applications.

A person certified from an eligible list more than three (3) times to the same appointing authority for the same or similar positions may be omitted from future certification to such appointing authority, provided that certification for a temporary appointment shall not be counted as one of such certifications.

Section 60.02 – Non-Competitive Classified Service: All positions as determined by the Commission requiring peculiar and exceptional qualifications of a scientific, technical, managerial, professional or educational nature or positions in which it is impractical to develop and administer competitive examinations may be placed in the non-competitive class of the classified civil service.

Applicants for such positions who have the necessary qualifications as determined by the Commission shall be given a non-competitive qualifying examination. The Commission shall note the specific reasons and evidence requiring such a suspension of a competitive examination.

Applicants who pass such examination satisfactorily shall be placed upon the eligible list therefore in alphabetical order without a grade or ranking and the entire eligible list shall

be certified to the Appointing Authority upon request. The Appointing Authority may appoint to such position any person on the list.

**Section 60.03 – Eligible Lists, Duration and Expiration:** The Commission shall maintain or will establish within a reasonable period of time, a list of eligibles in each class in the classified service for which examinations are given. Each list shall remain in force for twelve (12) months from the date of its promulgation unless a new examination is held sooner, or unless the list is extended by the Commission. Such extension, if made, shall be entered on the minutes of the Commission with the reason therefore. No such extension shall be longer than an additional one year.

When there are fewer than ten (10) names on an eligibility list, the Commission may declare the eligibility list expired. A person whose name appeared on an expired eligible list may compete in any new examination to establish a new grade or may retain their original grade in the order it will fall for purposes of a new twelve (12) month eligibility period so long as the retained score is not more than three years old.

**Section 60.04 – Ties and Veterans Preference:** In the event two or more applicants receive the same mark in open competitive examination, priority in the time of filing application with the Commission shall determine the order in which their names shall be placed on the eligible list. However, pursuant to Section 124.26 of the Revised Code, applicants eligible for veteran's preference under Section 124.23 of the Revised Code and these rules shall receive priority in rank on the eligible list over non-veterans on the list with a rating equal to that of the veteran. Ties among veterans shall be decided by priority of filing application. In the event of two (2) or more applicants receiving the same mark on a promotional examination, seniority shall determine the order in which their names shall be placed on the eligible list.

**Section 60.05 – Disqualification of Eligible:** If at any time after the creation of an eligible list the Commission has reason to believe that any person whose name appears on such list is disqualified for appointment because of incapacity developed subsequent to his examination, because of false statements made in his application or for other just and reasonable cause, said person shall be notified and given an opportunity to be heard. If said person shall fail to appear for such hearing, or it be established at such hearing that said eligible is disqualified or incapacitated for appointment, their name shall be removed from the eligible list.

**Section 60.06 – Change of Name and/or Address:** Employees shall report changes of name or address promptly on appropriate forms to their supervisor. Such changes shall be promptly forwarded through channels to the Commission.

It shall be the responsibility of all applicants and eligibles to promptly notify the Commission of any change of name and/or address immediately upon such change.

Section 60.07 – Removal from Eligibility List: Names may be removed from an eligible list by action of the Commission for the following reasons in addition to those heretofore considered:

- a) Request of the eligible.
- b) Failure to accept appointment upon certification unless a request for waiver of such certification under Rule 60.11 is granted by the Commission.
- c) Four (4) different certifications without receiving appointment.
- d) Upon resignation, from promotional eligibility lists.
- e) Any other just or reasonable cause as determined by the Commission.

Section 60.08 – Requisitions: Whenever a vacancy exists in the classified service, or a new position is created, the Appointing Authority shall immediately notify the Commission of the fact. When any such vacancy is to be filled, the Appointing Authority shall make a requisition upon forms prescribed by the Commission or the certification of names of eligibles for such positions and shall state whether the position is temporary or permanent, (if temporary, the duration of employment) and any additional requirements that may be deemed necessary.

Section 60.09 – Investigation of Requisition: At the discretion of the Commission, any requisition may be investigated to determine whether the title for which the certification is being requested is proper, whether the position is temporary or permanent, and whether the conditions of employment described by the Appointing Authority are appropriate. Based upon the findings, the Commission shall determine the proper class title to be assigned and whether the position is temporary or permanent.

Section 60.10 – Clearance with Auditor: No certification shall be made unless the requisition bears a statement from the Auditor to the effect that the position to be filled is in accordance with the approved budget.

Section 60.11 – Certification: When a requisition is received, certifications shall be made from a re-employment list for the class of positions in question, one name for each vacancy to be filled. If there is no re-employment list or if those on the re-employment list decline appointment, certification of the ten (10) persons standing highest on the appropriate eligible list shall be certified. The Clerk of the Commission may provide an additional name or names if any of the persons certified are not interested, fail to show for interview, decline appointment, or otherwise are not available.

If more than one vacancy is to be filled, the Commission may certify a group of names from an eligible list and the Appointing Authority shall appoint as follows: Beginning at the top of the list, each time a selection is made, it must be from one of the first ten (10) names certified on the list who is willing to accept consideration for the position.

Every person who is certified but not appointed can be considered up to four times. However, certification for temporary appointment shall not be counted as one of such

certifications. All candidates certified from competitive and non-competitive lists shall be interviewed.

In all cases, certification shall be made without regard to sex, race, religion, color, national origin, creed, age and handicap,.

If there are fewer than ten (10) names remaining on an appropriate eligible list, these names may be certified by the Commission and the Appointing Authority may, but is not required to, select one of the names. If fewer than ten (10) names appear on such list, the Commission may instead order a new eligibility list to be established.

In case there is no eligible list for the class of positions for which certification is requested, the Commission may order a new eligibility list to be established.

In case an eligible person's name appears on more than one list, appointment to a position in one class may be considered a waiver for appointment from the other eligibility lists for classes with equal or lower salary.

Section 60.12 – Notice of Certification: Names of candidates certified from a competitive list shall be notified in writing by the Appointing Authority or their representative informing the candidate of the title of the position, and the department in which the vacancy exists, and the time and place for interview. If said person fails to report for the interview at the time and place designated, or fails to accept appointment to the position, the Appointing Authority shall so notify the Commission who shall thereupon certify additional names from the appropriate eligible list. Those persons who fail to report for the interview or decline appointment shall be removed from the eligible list, provided, however, such persons may appeal within ten (10) days to the Commission for reinstatement on the eligible list.

Section 60.13 – Request for Waiver: A request for waiver of certification and appointment or reinstatement, specifying reasons for such requests must be filed with the Commission within three (3) days after the eligible individual has been notified of his certification to the Appointing Authority. A certification is not charged when the waiver is approved. Denial of such waiver request shall cause removal from the eligible list.

Section 60.14 – Appointments: The Appointing Authority shall appoint one of the persons certified within the time limitations contained in state statutes. The Clerk of the Commission may grant additional time as justified.

Section 60.15 – Temporary Appointments and Promotions: The acceptance or declination of a temporary appointment shall not affect the right of the eligible to certification for permanent employment.

Whenever there are urgent reasons for filling a vacancy, an appointment may be made without regard to the Civil Service laws or the Rules of the commission, but in no case shall said appointment continue longer than one hundred and twenty (120) days, and in no

case shall successive temporary appointment be made. However, an interim or temporary appointment, made necessary by reason of sickness, disability or other approved leave of absence of the regular employee shall continue only during such period of sickness, disability, or other approved leave of absence.

An interim or temporary promotion to a higher position without examination made necessary by reason of sickness, disability or approved leave of a regular employee may be authorized by the Commission, except in the Police and Fire Departments, upon the written request of an Appointing Authority who shall set forth full information with the request. All such temporary promotions shall continue only during such period of sickness, disability or leave and shall be recorded in the minutes of the Commission. Such temporary promotions shall be made, insofar as practicable, from the class or grade of positions immediately below the class or grade in which the temporary vacancy exists.

Temporary appointments may not be made to fill regularly authorized vacant positions.

Section 60.16 – Seasonal Appointments: Seasonal appointments may be made without examination with the consent of the Commission for periods during which said seasonal employment is required.

Seasonal appointments may not be made to fill regularly authorized vacant positions.

Section 60.17 – Reinstatement (Other than Police and Fire Departments): An Appointing Authority may, without the approval of the Commission, reinstate any permanent employee who resigns without fault or delinquency within one (1) year from the date of such separation to a vacancy in the same or similar position in the same department or a similar position in another department.

Reinstatement shall originate only upon departmental request and after approval by the Appointing Authority.

Reinstated employees shall be credited for continuous service prior to resignation for purposes of seniority credit on promotional examinations provided that reinstatement occurs within thirty-one (31) days of separation.

Section 60.18 – Reinstatement of Policeman or Fireman: Reinstatement of a fireman or policeman shall be in accordance with Ohio Revised Code, Section 124.50.

## **RULE 70.00**

### **TRANSFER, SERVICE RATINGS, LAYOFFS**

Section 70.01 – Transfers – Non-Uniform: A person holding a position in the classified service may be transferred, with the consent of the Commission, to a similar position in another office, department or institution having the same pay and similar duties; but no transfer shall be made to a position in another class nor to a position for which original entrance requires an examination involving essential tests or qualifications different from those required for original entrance to the position held by such person. No transfer shall be made to a position carrying a salary different from or higher than that of the position from which the transfer is requested.

Section 70.02 –Fitness For Duty Examinations: Every applicant appointed to or employed in the civil service shall be physically and psychologically able, with or without reasonable accommodation, to perform the necessary and essential functions of the position to which they are appointed, or in which they are employed. The Commission or Appointing Authority may require medical or psychological examinations of an employee or class of employees for the purpose of determining their fitness for the position. Such medical or psychological examination shall be made by a licensed physician or medical provider designated by the Commission and the results recorded and filed with the Commission.

Employees found to be unfit for the duties of their positions may be suspended, transferred, demoted, or dismissed as the facts may warrant after charts have been preferred and hearing held. An employee who is found unfit for duty may also elect retirement. Any employee who is suspended, demoted, or dismissed under the provisions of this section or who retires as a result of being found unfit for duty shall have the right to appeal to the Commission pursuant to Rule 80.08 of these rules.

#### Section 70.03 – Layoff Procedure (Other than Police and Fire):

a) Whenever it becomes necessary in any office or department other than the police and fire departments through abolishment of positions, lack of work or lack of funds as set forth in Section 124.321 of the Revised Code to reduce the number of employees within a class, the procedure outlined in this section shall be followed. The Appointing Authority shall determine the job classes and the number of employees in each class to be laid off. Any layoff within a classification must proceed by laying off in the following order:

- 1) Part-time probationary;
- 2) Part-time permanent;
- 3) Full-time probationary;
- 4) Full-time permanent.

In case of layoff, seasonal employees need not be removed until the beginning of the next season.

b) Retention points to reflect systematic consideration of seniority for all employees will be assigned by the Commission. Retention points will be determined as follows:

- 1) Seniority points for each completed 520 hours (excluding overtime hours) of continuous service (13 full weeks of service for a full-time employee). These seniority points shall be added to a base factor of one-hundred (100) points, thus yielding total seniority points.
- 2) The total seniority points equal the total retention points. In cases of identical retention point rating, employees having least seniority in terms of actual date of hire will be laid off first.

c) Displacement Rights: A laid – off employee in the classified service has the right to displace the employee with the least retention points in a lower classification in the same classification series. A classification series is any group of classification titles that have the identical name but different numerical designations, or identical titles except for designated levels of supervision. Any employee displaced by an employee shall have the right to displace another employee in a lower classification of the same classification series with less retention points. This procedure shall continue, if necessary, until the employee with the least retention points in the lowest classification of the classification series of the same Appointing Authority has been reached, and, if necessary, laid off. Employees shall notify their Appointing Authority of their intention to exercise their displacement rights within five (5) days of receiving their notice of layoff set forth in paragraph (d) below.

d) Notification of Layoff, Displacement and Recall: Each employee to be laid off shall be given advance written notice of the layoff by the Appointing Authority. Such written notice shall be either hand – delivered to the employee at work or sent certified mail to the employee's last address on file with the Appointing Authority. If hand – delivered, such notice shall be given fourteen (14) calendar days before layoff and the day of actual delivery shall constitute the first day of the fourteen (14) day period. If mailed, such notice shall be given seventeen (17) calendar days before layoff and the day of posting shall constitute the first day of the seventeen (17) day period.

Each notice of layoff or displacement shall contain the following information:

- 1) The reason for layoff or displacement.
- 2) The date layoff or displacement becomes effective.
- 3) The employee's retention points
- 4) The right of such employee to appeal to the Civil Service Commission and the time within which to file an appeal.
- 5) A statement advising the employee of the right to displace another employee and the length of time within which the employee may displace (bump) another employee.

- 6) A statement advising the employee of the right to reinstatement or re-employment.
- 7) A statement that, upon request by the employee, the Appointing Authority will make available a copy of rules regarding layoffs.

e) Appeal of Layoff or Reduction: Any laid off or displaced employee may file a written appeal of the layoff or displacement to the Municipal Civil Service Commission. Such appeal must be filed no later than ten (10) days after the effective date of the layoff or displacement.

Section 70.04 – Layoffs or Reductions in the Police and Fire Departments: Whenever it becomes necessary in the Police and Fire Departments, through lack of work or funds, or for causes other than those outlined in Section 124.34 of the Revised Code, to reduce the force in such department such changes shall be made in accordance with the provisions of Section 124.37 of the Revised Code.

Section 70.05 – Layoff Lists:

- a) Layoff Lists: Each employee laid off pursuant to Section 70.04 shall have their name placed on an appropriate “layoff” list. Employees shall be placed on the layoff list according to total retention points, with those employees having the most total retention points being placed highest on the layoff list. Employees on the layoff list retain reinstatement rights to the classification in the series equal to and lower than the series in which the employee was employed at the time of layoff for a period not to exceed one (1) year. During this period, said layoff list will be certified to all Appointing Authorities as in the case of original appointments. Whenever discontinued positions are re-established by an Appointing Authority and a request is made for certification of eligibles, former employees of the department in question who have been laid off and whose names appear on a valid “layoff” list shall be first to receive such appointment according to total retention points.
- b) Reinstatement Rights/Recall: Each employee recalled from layoff shall be notified of the offer of reinstatement or re-employment by certified letter. The re-employment shall result in removal of such employee’s name from the appropriate layoff list. Each recalled employee shall be allowed ten (10) calendar days from the date of receipt of the letter to return to work, and such time limit shall be explained to the employee in the notification of recall letter. In the event of extenuating circumstances (e.g., illness, injury, absence from City or State or other good cause as determined by the Commission) preventing the employee from returning within the above time limit, the employer shall grant a reasonable extension, not to exceed sixty (60) days. In the absence of extenuating circumstances, an employee not accepting or declining reinstatement or re-employment within ten (10) days shall be deemed to have declined reinstatement or re-employment for purposes of removal under these rules.

For purposes of recall, it shall be the employee's responsibility to have a current address on file with the Appointing Authority.

**Section 70.06 – Unpaid Leave of Absence:** With the consent of the Commission, the Appointing Authority may grant leave of absence to an employee in the classified service for a period not to exceed six (6) months, unless otherwise mandated by law. Upon the expiration of such leave of absence, such officer or employee shall be reinstated. Seniority credit shall accumulate only if the leave is related to law enforcement education or military service.

**Section 70.07 – Absence Without Leave; Reinstatement:** Absence from duty without leave for any time will be considered neglect of duty and good cause for dismissal. Absence from duty without leave for service by the absentee upon report of such absence by the Appointing Authority and the resignation shall be entered upon the records of the Civil Service Commission; provided, however, that if at any time within thirty (30) days the person who was absent without leave makes a satisfactory explanation to the Commission of the cause of absence, said person may be reinstated to their position. Failure to report after a leave has expired or has been disapproved or revoked and cancelled by the Commission shall be considered neglect of duty and cause for discharge; provided, however, that if an officer or employee so discharged shall show to the satisfaction of the Commission that such failure to report was excusable, the Commission may then order this reinstatement.

## **RULE 80.00**

### **REDUCTION, SUSPENSION, REMOVAL**

**Section 80.01 – General Limitations:** No person in the classified service shall be reduced in pay or rank, laid off, suspended, removed or otherwise discriminated against by the Appointing Authority for religious or political reasons or affiliations, for reasons of sex, race, creed, color, national origin, military status, age or handicap or any other reason not connected with the person's value to the service.

**Section 80.02 – Reductions, Suspensions, and Removals (In General):** The Appointing Authority may reduce, suspend, or remove any person in the classified service under his jurisdiction for incompetency, inefficiency, immoral conduct, dishonesty, conviction of a felony, drunkenness, insubordination, discourteous treatment of the public, neglect of duty, conviction of a misdemeanor involving moral turpitude, insanity, abuse of authority, repeated failure to meet personal financial obligation, or for any other just and reasonable cause as determined by the Commission and as further provided in any contract entered into by the City and any employee union.

Persons who are still within their probationary period of employment are considered unclassified employees and serve at the pleasure of their Appointing Authorities. As such, persons in their probationary period who are reduced, removed, or suspended have no right to appeal to the Commission.

**Section 80.03 – Suspensions (Except Fire and Police):** No classified employee shall be suspended without first having been afforded a hearing by the Department Head as set forth in Section 80.04 of these rules, except that an employee may be suspended pending a hearing where the charges are theft, embezzlement of public funds, being under the influence of, or the use of alcoholic beverages or abusive drugs during work hours, physical violence, offenses involving moral turpitude or gross insubordination. However, where an employee is suspended under this provision, a hearing before the Department Head shall be held prior to the end of the next regularly scheduled workday wherever possible.

**Section 80.04 – Disciplinary Procedure (Except Fire and Police):** When an employee in the classified service is to be disciplined, the Appointing Authority or designee shall have the charges against the employee reduced to writing and served on the employee. A disciplinary hearing with the Appointing Authority or designee shall be held on a date and time no more than three (3) workdays after the charges have been served on the employee. In the event the hearing cannot be held within three (3) workdays because the employee is unable to attend, then it shall be held within three (3) workdays after the employee returns to duty.

The employee shall have the right to be represented at such hearing by a designated representative who shall have the right to attend any hearing held.

The Appointing Authority or designee shall hear the evidence in support of the charges and the evidence in defense of the charges and shall endeavor to ascertain the truth of the charges in order to render a fair and just decision based on the evidence submitted at the hearing. The Appointing Authority shall render its decision within three (3) workdays after the day of the hearing.

Section 80.05 – Suspensions – Fire and Police: No officer or classified employee in the Fire or Police Divisions shall be suspended without first having been afforded a hearing by the Chief of the Department except that an officer or employee may be suspended pending a hearing where the charges are of such a nature as to endanger the public safety or welfare. However, where an officer or employee is suspended under this provision, a hearing before the Chief of the Department shall be held prior to the end of the next regularly scheduled workday.

The Chiefs of the Divisions of Police and Fire shall have the right to recommend suspension of any of the officers or employees in their respective divisions to the City Administrator for incompetence, gross neglect of duty, gross immorality, habitual drunkenness, failure to obey orders given by the proper authority, or for any other just or reasonable cause. If any officer or employee is suspended as herein provided, the Chief of the division concerned shall forthwith in writing certify the fact together with the cause for suspension to the City Administrator. Within five (5) workdays from the receipt thereof, the City Administrator shall proceed to inquire into the cause of such suspension and render judgment, which if the charges be sustained, may be suspension, reduction in rank, or dismissal. Such judgment in the matter shall be final, except as otherwise hereinafter provided. In any such investigation, the City Administrator shall have the same power to administer oaths and secure the attendance of witnesses and production of documents as is conferred upon the council.

If the Chief of the division is subject of the suspension, the City Administrator shall proceed as set forth herein.

Section 80.06 – Disciplinary Procedure - Fire and Police: When an officer or employee in the division of Fire and police is to be disciplined, the Chief of the Division shall have the charges against the officer or employee reduced to writing and served on the employee. A hearing before the Chief of the Department shall be held on a date and time no more than three (3) workdays after the charges have been served on the officer or employee. In the event the hearing cannot be held within three (3) workdays because the officer or employee is unable to attend, then it shall be held within three (3) workdays after the officer or employee returns to duty.

The officer or employee shall have the right to be represented at such hearing by a designated representative who shall have the right to attend any hearing held.

The Chief of the Department shall hear the evidence in support of the charges and the evidence in defense of the charges and shall endeavor to ascertain the truth of the charges. If the Chief of the Division sustains the charges, he may recommend the discipline to the

City Administrator, who will proceed in the same manner as provided in section 80.05 of these rules.

If the Chief of the division is subject of the disciplinary process, the City Administrator shall proceed as provided in section 80.05 of these rules.

**Section 80.07 – Reductions and Removals:** Any employee deemed guilty of such act or omission which justifies their reduction in rank or removal from the service may be immediately relieved of duty by their immediate superior. The Appointing Authority or authorized representative shall cause to be served on such employee, either personally or by certified mail, at the last known address or such employee as appears on the civil service records, a written statement specifically setting forth the reasons for the reduction in rank or removal.

**Section 80.08 – Appeals to the Commission:** In case of a removal, reduction, or suspension of 24 hours or more for employees exempt from overtime pursuant to the Fair Labor Standards Act (FLSA) or of 40 hours or more for employees non-exempt from overtime pursuant to the FLSA, the Appointing Authority shall serve on the employee, personally or by certified mail, at the last known address of such employee, a written statement concisely setting forth the reasons for which the employee is removed, reduced, or suspended and the duration of any such suspension. The employee may appeal to the Commission within (10) workdays from the date such written statement is served upon them so long as a right to appeal exists pursuant to Ohio Revised Code, Section 124.34.

When notified of an employee's appeal, the Appointing Authority shall transmit to the Commission a copy of the written statement sent to such employee, together with a statement of the time and manner of service thereof. The Commission shall hear such appeal within thirty (30) days from the filing of the same with the Commission and may affirm, disaffirm, or modify the judgment of the Appointing Authority issuing such order and the Commission's judgment in the matter shall be final except as otherwise provided by law.

In an appeal of a removal based upon a "last chance agreement" between the Appointing Authority and the employee, the only issue in which the Commission may determine is whether the employee violated the last chance agreement. The Commission may only affirm or disaffirm the judgment of the Appointing Authority. For purposes of this provision, "last chance agreement" has the same meaning as set forth in Section 124.34(E) of the Revised Code.

**Section 80.09 – Resignation:** An employee wishing to leave City service in good standing shall file a written resignation with their department and /or division head at least two (2) weeks in advance. Failure to comply with this requirement may result in denial of future employment with the City of Defiance.

**Section 80.10 – Political Activities:** No officer or employee in the classified service of the City shall engage in partisan political activity and shall not to that extent:

- a) directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution to any political party or for any candidate for public office;
- b) nor shall any such person solicit, directly or indirectly, orally or by letter, or be in any manner concerned in soliciting any such assessment, contribution, or payment from any officer or employee in such classified service;
- c) nor shall any such officer or employee be an officer in a political organization or take part in politics other than to vote as he pleases, and to express freely his political opinions.
- d) engage in any other activity prohibited by O.A.C. 123:1-46-02.

This provision shall not prohibit officers or employees of the City from making personal political contributions.

## **RULE 90.00**

### **INVESTIGATION AND HEARING**

Section 90.01 – Authority to Investigate: The Commission may make investigations of the enforcement and qualification of the Rules affecting the merit system, or City ordinances relating thereto. Should a violation be uncovered the Appointing Authority and the Mayor shall be notified and/or other appropriate action taken.

Section 90.02 – Administering Oaths; Subpoena Powers: All witnesses must testify under oath or affirmation. Any Commission member shall have power to administer oaths and affirmations to witnesses and to take testimony concerning any matter which the Commission has authority to investigate.

The Commission shall have the power to subpoena and require the attendance of witnesses and the production of documents pertinent to any investigation or hearing.

Either party may request that a subpoena be issued by the Commission. Such requests shall be submitted no later than seven (7) days prior to the hearing. Subpoenas *duces tecum* shall be submitted no later than ten (10) days prior to the hearing. It is the responsibility of the requesting party to ensure proper service of the subpoena.

Section 90.03 – Notice of Hearing and Removal Orders: Upon receipt of a timely appeal from an order of removal, reduction in pay or position, or suspension, the Commission shall set a time and place to hear such appeal and shall notify the Appointing Authority, as well as the employee and their attorney, if known, of the time and place of the hearing. Such notice shall be in writing and mailed to the last known post office address of each party no less than ten (10) calendar days prior to the hearing date; however, this time limit may be waived by the Commission at the employee's request.

Amendments to the orders of removal, reduction in pay or position, or suspension of twenty-four (24) hours or more for employees exempt from the overtime provisions of the FLSA or forty (40) hours or more for employees not exempt from the overtime provisions of the FLSA, may be made by the Appointing Authority at any time, provided the employee and his attorney, if any, receive copies of the amended order no later than ten (10) calendar days before the time set for the hearing as provided herein.

Section 90.04 – Conduct of Hearings: Hearings before the Commission shall be conducted in an orderly manner. The object of the hearing shall be to ascertain the truth concerning the matter to which such hearing relates. The Commission is not required to strictly follow the rules of evidence as applied by the courts in civil cases. The Commission may permit the introduction of evidence otherwise excludable as hearsay provided some foundation is established as to its reliability and its necessity. The parties may be represented by counsel or other representative. The Commission may also be represented by independent legal counsel when, in the Commission's opinion, such independent legal counsel is needed and the cost of such representation shall be paid by the City.

In a hearing on an appeal before the Commission, the following procedure shall be followed:

- a) Hearings may be public except when the nature of the charge may be offensive to public morality and decency, in which case the Commission may order the hearing closed to the general public.
- b) Each party may call witnesses to testify on their behalf. The Commission on its own initiative may call witnesses other than those called by either party if in its judgment the merits of the case so require. Subpoenas shall be issued for witnesses when requested by either party or by the Commission. In no instant shall more than five (5) witnesses be called by each party without the consent of the Commission.
- c) Hearings shall commence with a reading of the written statement of charges certified to the Commission by the Appointing Authority. If the employee has replied in writing to the charges, such reply shall next be read. If the employee has not made a reply to the charges, the employee or their counsel may next make an oral statement of their objections to the charges. The Appointing Authority shall begin the introduction of evidence and shall have final rebuttal. The Commission may, in its discretion, hear final arguments or allow post-hearing briefs.
- d) The Commission may record hearings either by the use of a stenographer or through the use of a magnetic tape.
- e) In appeals from the order of the City Administrator or Appointing Authority demoting, suspending, or removing any classified employee, the complete transcript of testimony taken at the hearing before the City Administrator or Appointing Authority, and filed with the Commission, may be heard as transcript of the testimony, in lieu of an oral hearing.
- f) Upon the completion of all evidence introduced, the Commission may render its final order immediately, or may take the matter under advisement and render its final order within a reasonable time thereafter.
- g) A written copy of the final order shall be transmitted to the Appointing Authority and the employee or their legal counsel, if any.
- h) If the employee shall fail to appear at the time fixed for the hearing, the Commission may hear the evidence offered by the Appointing Authority and render judgment thereon. If the Appointing Authority or authorized representative fails to appear at the time fixed for the hearing, and if no evidence be offered in support of the charges, the Commission may render judgment as by default or may hear evidence offered by the employee and render judgment thereon.

**Section 90.05 – Motions:** All motions shall state, with particularity, both relief sought by the moving party and the basis for granting such relief. All motions together with supporting documentation, if any, shall be served on the opposing party.

Motions to dismiss an appeal shall be filed within 28 days of the filing of the notice of appeal and 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 and must be received within 14 days of filing of the motion to dismiss.

Procedure 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.

**Section 90.06 – Resignation of Employee:** The acceptance by an Appointing Authority of the resignation of a person discharged, before the final action by the Commission, will be considered a withdrawal of the charges. Notice of such resignation shall be submitted immediately to the Commission. The separation of the employee thus resigning shall be entered upon the records of the Commission and the proceedings dismissed without judgment.

**Section 90.07 – Trial Board or Hearing Officer:** The Commission may appoint a trial board or hearing officer to hear an appeal of a disciplinary or other matter. When the Commission exercises its discretion to do so, the following procedure shall apply before the Commission takes final action on the appeal. “Hearing officer” shall have the same meaning as “trial board” for purposes of this section.

- a) The hearing officer shall submit a report and recommendation to the Commission in each appeal considered by the hearing officer for the Commission. Each party to the appeal shall also receive a copy of such report and recommendation.
- b) No objection may be made to any decision of a hearing officer prior to the submission of the hearing officer's report and recommendation to the Commission. Written objections to reports and recommendations shall be filed within ten (10) calendar days after receipt of the report and recommendation(s). Written replies to objections shall be filed within ten (10) days after the opposing party's objection has been filed.
  - 1) If a report and recommendation is refused, unclaimed or sent to the wrong address due to a party's failure to notify the Commission of a change of address, it shall be deemed received by the party three (3) calendar days after such mailing. A certificate of mailing shall be considered sufficient proof of mailing.
  - 2) The Commission may extend the time to file objections or responses to the report and recommendation.
  - 3) Objections to reports and recommendations should include a brief statement of the case and a concise statement of each area of disagreement with supporting arguments and memoranda. All parties' objections or responses must be limited

to evidence presented at the hearing. Objections and responses to objections containing arguments based on evidence not already in the record may be stricken.

- 4) No objection without a certificate of service may be considered by the Commission.
- c) The Commission may accept, reject, or modify, in whole or in part, any report and recommendation of the hearing officer. The Commission may also receive additional evidence, hear arguments, or remand an appeal to a hearing officer for further consideration or hearing.
- d) Final orders shall be signed by the Chair or other member of the Commission. The original order shall be journalized and a copy of the order placed in the case file. Agreement of at least two (2) Commission members shall be required to reject or modify any report and recommendation of the hearing officer. If no such agreement is reached, the report and recommendation of the hearing officer shall be deemed affirmed as the final order of the Commission but shall not have any precedential value.

Copies of final orders of the Commission shall be sent by certified mail to the affected employee and by regular mail to the Appointing Authority and their representatives.

1. Copies of orders returned to the Commission or unclaimed or refused shall be reissued by regular United States mail.
2. Copies of final orders returned to the Commission as undeliverable shall be placed in the case file and the opposing party shall be notified.

## **RULE 100.00 AMENDMENTS OF THE RULES**

**Section 100.01 – Procedure:** Proposed amendments to the rules shall be made first by the passing by majority vote of a proposed amendment to the rules and subject to a public hearing. The full text of the proposed amendment shall be recorded in the minutes of the Commission at least one week prior to adoption. Additionally, a proposed amendment shall be published in summary format along with a Notice of Public Hearing as to the change in the Crescent-News at least one week prior to adoption. Majority vote shall be required for adoption.

**Section 100.02 – Publication:** Notice of adoption of the foregoing rules shall be published in summary format in The Crescent-News, with the full text being made available for public inspection. All amendments shall become effective 30 days after a one-time publication of a summary of the amendment or of the full text of the amendment in The Crescent-News, unless a different date is fixed in the Resolution approving the amendment.

**Section 100.03 – Previous Rules Repealed:** All previous rules and regulations of the Commission are hereby rescinded.

## **RULE 110.00 SEVERABILITY**

**Section 110.01:** If any section or part of a section of these rules or any amendment thereto shall be held by any court of competent jurisdiction to be invalid, such decision shall not affect the validity of any other section or part of a section of these rules.

## **RULE 120.00 WAIVER OF RULES**

**Section 120.01:** 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 of the Commission, such action with the reasons therefore to be entered in the minutes of the meeting.

## **RULE 130.00 EMPLOYEE EVALUATION SYSTEM**

**Section 130.01:** Each appointing authority of the City is authorized to develop and administer in a manner it devises an evaluation system for the employees it appoints.