

**City of Broadview Heights**

*Civil Service Commission*

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



AMENDED AND ADOPTED

September 3, 2024

**William W. Baker, Chairperson**

**Clayton P. Tober, Member**

**James Giomini, Member**

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The Rules and Regulations of the Civil Service Commission were originally adopted on June 6, 1985, and were amended and re-adopted by Council by Ordinance 24-95, passed March 27, 1995. They were amended again on May 6, 1996, May 19, 1997, May 12, 1998; January 31, 2000, April 19, 2001, April 24, 2009, April 9, 2013; June 3, 2013; October 15, 2018, February 4, 2019, June 17, 2019, February 7, 2023, October 2, 2023. September 3, 2024

## **PREAMBLE**

The following set of rules and regulations is hereby adopted in accordance with the authority conferred upon the Civil Service Commission of the City of Broadview Heights by the Constitution of the State of Ohio and the Ohio Revised Code, including but not limited to Chapter 124 pertaining to Municipal Civil Service Commissions. Where the Rules and Regulations of the Civil Service Commission do not address a specific matter, the Commission shall follow the Ohio Revised Code if germane to an issue under consideration.

### **SECTION I – ADMINISTRATION**

#### **1.1 *Civil Service Commission***

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. This Commission will meet on the second Tuesday of each month as needed in a meeting open to the public.

#### **1.2 *Commission Duties and Powers***

- a) The Civil Service Commission shall exercise all powers and duties consistent with what is prescribed and conferred upon the director of administrative services and the state personnel board of review as granted to the commission. (ORC 124.40 (A)).
- b) The Commission shall elect one of its members as Chairperson, who shall serve until a new member is appointed and qualified, at which time a successor as Chairperson shall be elected. It shall be the duty of the Chairperson to preside at all meetings of the Commission.
- c) The Chairperson may, on his 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 earlier than 24 hours nor later than ten days from the date of notice of such meeting. In the absence of the Chairperson, any other member shall act as Chairperson. 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.
- d) The order of business for meetings of the Commission:
  1. Call to Order
  2. Roll Call
  3. Disposition of Unapproved Minutes
  4. Reports and Communications
  5. Unfinished Business
  6. New Business
  7. Adjournment
- e) The Commission shall employ a suitable person to act as Administrator of the Commission. The Administrator shall attend all meetings and shall perform such duties as may be prescribed or required by the Commission.

- f) Any member or Administrator of the Commission shall be authorized to certify payrolls.

### **1.3 Records**

The following records shall be made available free of charge for public inspection at all reasonable hours. An appointment to view such records shall be made with the Commission Administrator or, in his absence, the Commission Chairperson. Fees will be assessed at rates established by the City Ordinance for individual copies of any document requested unless specifically modified by the Commission. Such records shall include the Rules, Commission Minutes, Certified Exam Results (10/2/18), and any records designated as public records under state law. However, disclosure of physical, medical, and or mental examinations, written examinations, performance evaluations (ORC 124.09), and other personal information, the specific release of which is prohibited by state law shall be reviewed by the Commission and those authorized by the Commission only and shall not be released to the public, except where the applicant or employee has provided written permission or upon order from a court of competent jurisdiction. The Commission shall prepare, continue, and keep a complete roster of all persons in the classified civil service. In addition, the commission shall require performance evaluations to be submitted annually at the beginning of the year, but in no case later than the last day of March of each year.

### **1.4 Retention**

All examination papers of competitors shall be kept on file as long as the eligible list created from the examination remains in effect. (10/2/18)

### **1.5 Amendments**

Any amendments proposed to the Rules and Regulation of the Civil Service Commission shall be presented in writing at any regular or special meeting of the Commission, but final action thereon shall not be taken until at least two readings and discussion of such proposed amendment (3/21/03) except that such delay in action thereon may be suspended by the unanimous vote of the Commission. The amended and adopted Civil Service Rules and Regulations must be approved by the City Council prior to codification. (10/2/18)

### **1.6 Appointments and Promotions**

Appointments and promotions in the Civil Service of the City of Broadview Heights shall be made according to merit and fitness, to be ascertained as far as practicable by competitive examinations. Laws shall be passed providing for the enforcement of this provision.

### **1.7 Jurisdiction**

The Civil Service Commission of the City of Broadview Heights does not include local schools or health districts in their function.

## SECTION II – DEFINITION OF TERMS

The several terms herein specified whenever used in the Rules and Regulations of the Civil Service Commission of the City of Broadview Heights or in the administration of the Ohio Revised Code shall be construed as follows:

1. **Active Service** - As applied to probationary employees, performing required duties of a position exclusive of all training time and any paid time for hours not worked, except vacation and holiday pay.
2. **Additional Credits** - Additional points added to examinations for military service, college, city service and seniority, which add value to the applicants' overall qualifications.
3. **Appointing Authority** – The Mayor of the City of Broadview Heights
4. **Certification** – The act of supplying names from an official eligible list and recording thereon to the appointing authority for the purposes of employment selection.
5. **Certified Eligible** – Applicants who have met the minimum requirements of the examination and who are thus certified for appointment to a position for which the exam was held.
6. **Charter** – Shall mean the Charter of the City of Broadview Heights, Ohio
7. **City** – City of Broadview Heights, Ohio
8. **City Service**- Current City employees in good standing who have completed all probationary requirements as part-time employees and are moving to full-time status within the same job classification in either the Police or Fire Department
9. **Civil Service** – All offices and positions of trust or employment in the service of the City as defined by the Charter
10. **Class** – One or more positions sufficiently distinct from all other positions in duties, responsibilities, and qualifications required to warrant a separate title.
11. **Classified Service** – All persons employed full-time within the Police and Fire Department for which it is practicable to determine the merit and fitness of the applicants by competitive examination and as defined by the Charter.
12. **Commission** - The Civil Service Commission of the City of Broadview Heights.
13. **Competitive Examination** – An examination given for the purposes of establishing an eligible list arranged in the order of merit.
14. **Demotion** - The movement of any 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 the request of the employee.
15. **Eligible List** - A list of names of persons found qualified through examination for the purpose of filling vacancies in the Classified Service.
16. **Employee** - Any person holding a position subject to appointment, removal, promotion, or reduction by an appointing authority
17. **Employee Status** – An employee's title, salary range, and type of employment (temporary, seasonal, permanent, etc.).
18. **He** – The masculine pronoun "He" and its derivatives, whenever employed, include the feminine pronoun and its derivatives.

19. **Permanent Employees** – An employee in the Classified Service who, following certification, has completed the applicable probationary period and occupies a duly authorized position involving full-time year-round service.
20. **Objective Test** – Written tests consisting of multiple choice or true and false questions.
21. **Ohio Revised Code (ORC)** – The rules and Regulations of the Civil Service Commission are derived from the ORC – Chapter 124 (10/2/18)
22. **Paramedic** – An Applicant or Employee certified by the State of Ohio holding medical certification as a Paramedic.
23. **Point of Service** – Commences upon taking the Oath of Office
24. **Part-Time Employees** – A paid employee working less than full-time, consistent with the Fair Labor Standards Act.
25. **Position** - 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.
26. **Position Classification** - The arrangement of positions into classes, including grades. Positions shall be classified in accordance with the duties and responsibilities of the position.
27. **Promotion** - A vertical movement from one class to a higher class involving a change in grade and rate of compensation attained by a competitive exam.
28. **Promotional Examination** - An examination which is open only to employees who meet the qualifications set forth by the Commission and given for the purpose of establishing an eligible list.
29. **Provisional Employee** - Any employee appointed under the Emergency and Temporary Appointments provision of these rules.
30. **Rules** – The Rules and Regulations of the Civil Service Commission of the City of Broadview Heights.
31. **Seniority** – All references to seniority shall mean the anniversary date of employment full-time within the respective department of employment.
32. **Transfer** – Movement of an employee from one class to a like or related class not involving an increase or decrease in grade.
33. **Unclassified Service** – Comprises those positions set forth as such in the Charter. Positions in the unclassified service shall be exempt from all examination requirements of the Commission.
34. **Weights** - Used in connection with scoring examinations to indicate the relative importance of the subjects or parts of the examinations.

## **SECTION III – POSITION CLASSIFICATION**

### **3.1 *Classified Service***

The Classified Service shall comprise all persons employed full-time within the police and fire department for which it is practicable to determine the merit and fitness of applicants by competitive examination. The classified service shall be defined according to the Charter of the City of Broadview Heights. All members of the Classified Service who have permanent status must be citizens of the United States. or hold a valid permanent resident card. (ORC 124.22)

### **3.2 *Classification Plan***

A classification plan for the employees in the classified service shall be adopted and maintained by the Civil Service Commission, which plan shall provide for the standardization and classification of all positions and employment in the classified service of the City. Such classification into groups and subdivisions shall be based upon and graded according to duties and responsibilities and so arranged as to permit the filling of the higher grades, so far as practicable, through promotions. (10/2/18)

### **3.3 *Power of Commission to Change Classes***

The Commission may, from time to time, designate new classes, combine, alter, or abolish existing classes. The Commission shall have the sole power to create new classifications. (10/2/18)

### **3.4 *Content of Classification Plan***

The classification plan, which shall be maintained by the Commission, shall include an alphabetical listing of all classifications that have been established, together with job descriptions for each classification. The categorization of classes into groups and subdivisions shall be reflected in the job descriptions, which also identify the general duties, responsibilities, and qualification requirements for the kinds of positions included in each classification. (10/2/18)

### **3.5 *Amending Official Classification***

It shall be the duty of the Commission to study new positions or existing positions in which there is doubt as to the appropriate titling. The Commission shall amend as necessary the official classification to reflect the results of such studies.

## **SECTION IV – APPLICATION**

### **4.1 *General***

Every applicant for admission to any examination for a position in the Classified Service must be a citizen of the United States or hold a valid permanent resident card and meet the age requirements as stated in the exam announcement. Applications shall be furnished by the Commission (Exhibit A). (10/2/18)

## **4.2 Applications**

Applications for admission to any examination shall be made upon application forms approved by the Commission. All applications shall be legibly printed in ink or typed, signed by the applicant, in his own handwriting, notarized, and filed in the office of the Commission within the time limit fixed by the Commission for the particular examination. (Exhibit A). (10/2/18)

## **4.3 Rejection of Applications**

All applications shall be preliminarily reviewed by an authorized representative of the Commission who shall report the results of such review to the Commission for acceptance, rejection, or modification. Applications may be rejected for any of the following reasons:

- a) If the applicant has not met the qualifications specified on the announcement by the filing deadline or has intentionally made false statements on his application with regard to any material.
- b) That the applicant will not attain the prescribed minimum age or has exceeded the maximum age specified on the announcement on or prior to the date of the written examination.
- c) That the applicant was previously in the Classified Service or any branch of public service or any other type of employment and was removed for cause or did not resign in good standing.
- d) The applicant cannot speak and write in English.
- e) Any other just and reasonable cause.

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, file a written complaint against such rejection. If any such complaint 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 the decision in such inquiry. If the Commission finds the rejection justified, the examination paper shall not be included among those to be eligible for certification.

# **SECTION V – EXAMINATIONS**

## **POLICE DEPARTMENTS AND FIRE DEPARTMENTS**

Whenever the Commission shall decide that the good of the Civil Service will be promoted thereby, it may hold an examination for any office or position in the Classified Service. Appointments and promotions in the civil service of the state shall be made according to merit and fitness, to be ascertained, as far as practicable, by competitive examinations. Laws shall be passed providing for the enforcement of this provision. (Article XV, Sec. 10 Ohio Constitution)

## **5.1 Place**

Examinations may be held in such places as the Commission deems advisable and shall be administered under its direction.

## **5.2 Notice of Examination**

All notices of examination shall clearly state the time, place and location of the examination and its' terms, conditions and components including but not limited to citizenship, minimum age, type of examination, which shall consist of: written, physical agility, complete medical exam including drug testing and psychological exam which shall consist of a written exam and a personal interview.

- a) Entrance Examination Notice of competitive entrance examinations for the positions in the classified service shall be done by posting notices via electronic media, by posting notices conspicuously at the City designated posting boards, city website (ORC 124.23 (G)), and in such other places as may be deemed advisable, not less than two weeks prior to such examination.
- b) Promotional Examinations Notice of competitive promotional examinations to be held shall be given by posting bulletins in conspicuous places in the departments whose employees may be interested or may be by individual communications to the employees eligible for such promotion. Such notice shall be given not less than two weeks prior to the examination.

### **5.3 Entrance Examination Fees**

The Commission shall have the right and option to fix reasonable fees for the privilege of taking entrance examinations. Said fees are to be used to offset the costs of administering the examination. The announced fees must be paid by the applicant according to the requirements specified in the announcement. In the event of willful misrepresentation, refunds will not be issued. (10/2/18)

### **5.4 Identity of Examinees Concealed**

The identity of all persons taking a competitive assembled written examination shall be concealed by the use of an identification number, which shall be used on the examination papers. The examination shall commence by requiring each competitor to fill out and sign an identification sheet containing his examination number, his name and address, and other such information as the Commission may require and seal the same in an official envelope. All identification sheets shall be placed in a sealed package and deposited in a safe place, and the package shall be opened for the identification of papers only after the marking has been completed on all papers. All exam papers submitted by competitors shall contain their numbers only, and any paper bearing the name of the applicant or any other identification mark shall be rejected. Specific announcement of these facts shall be made at the commencement of the examination.

### **5.5 Admitting Applicants to Examination**

No applicant shall be admitted to any assembled examination more than 30 minutes after the advertised time for beginning such examination. Late arrivals shall only be given the balance of the stated time allotted to complete the examination

### **5.6 Examination Time Limitation**

No applicant in any examination shall be given a longer time on any subject than prescribed by the Commission when examination questions are approved. An exception is to be made in compliance with all ADA and 504 of the Rehabilitation Act of 1973 (12/16).

### **5.7 Frauds in Examination Prohibited**

No person or officer shall:

- a) Willfully or corruptly by himself or in cooperation with one or more persons' defect, deceive, or obstruct any person in respect of his or her right of examination, appointment, or employment arising under the Revised Code or under any Rules and Regulations described pursuant thereto or herein; or
- b) Willfully or corruptly, falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified pursuant to the provisions of the Revised Code or aid in doing so;
- c) Willfully or corruptly make any false representation concerning the results of such examination or concerning any person examined; or
- d) Willfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, or to be appointed, employed, or promoted; or
- e) Willfully impersonate any other person, or permit or aid in any manner any other person to impersonate him in connection with any examination, registration, appointment, or application, or request to be examined, registered, or appointed; or
- f) Furnish any false information about himself, or any other person, in connection with any examination, registration, appointment, application, or request to be examined, registered, or appointed; or
- g) Make known or assist in making known to any applicant for examination any question to be asked on such examination or
- h) For any applicant taking an examination to assist any other applicant in any manner whatsoever; or
- i) Personally solicit favor from any member of the Commission, appointing officer, or have any person on his behalf solicit a favor; or
- j) Any applicant in any examination found to be using any means of information other than that provided in the examination itself, such as memoranda, technology devices of any sort, pamphlets or books of any kind to assist him in answering the questions, shall have his examination papers taken up and filed with a zero marking when the circumstances justify such action.
- k) Electronic devices of any kind shall not be permitted in the testing room. (4/24/09)

### **5.8 Visitors at Examinations**

No visitor shall be admitted to the examination room during any examination except by special permission of the person in charge.

### **5.9 Types and Methods of Examination**

The Commission shall determine and state in the announcement of each examination whether it will be competitive, noncompetitive, recruitment or promotional, or any combination thereof.

### **5.10 Character of Examinations and Weights Thereof**

An examination may include an evaluation of such factors as education, training, capacity, knowledge, manual dexterity, and physical or psychological fitness. An examination shall consist of one or more tests

in any combination. The test may be written, oral, physical, a demonstration of skill, or an evaluation of training and experiences and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position for which appointment is sought. Tests may include structured interviews, assessment centers, work simulation, examination of knowledge, skills, and abilities, and any other acceptable testing methods. (ORC 124.23 (D)) The Commission shall prescribe the subjects of each examination and the relative weights to be attached thereto, provided that any such determination must have been adopted prior to the date of such examination. (10/2/18)

### ***5.11 Separate Exams for Police, Dispatch, Corrections Officer, & Firefighter/Paramedic***

Separate examinations shall be given, and separate eligibility lists shall be maintained by the Commission for original appointments to and promotions in the above-mentioned categories. No person may be transferred from one list to the other. Appointments and promotions in the departments shall be only from the separate eligible lists maintained for each of the departments. Transfers of personnel from one department to the other are hereby prohibited.

### ***5.12 Parts of Examination***

The Commission shall determine in the case of each examination the parts or subjects into which it shall be divided and the weight to be assigned to each part. The parts that shall be recognized will include written tests, physical agility, medical, psychological, and other tests as the Commission deems appropriate. No written examination shall be held except in the presence of the examiner(s) duly assigned by the Commission. (10/2/18)

### ***5.13 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. The qualifications for admission to a postponed examination may be altered at the discretion of the Commission so as to secure an adequate number of applicants; however, these alterations shall be adequately publicized. Notice shall be given to all applicants when an examination is postponed or canceled, and such additional announcements and publications as needed shall be issued to notify the public. Applicants in any postponed or canceled examination will be eligible to compete in the next rescheduled examination without filing a separate application or payment of an additional fee. If a postponement occurs, the age requirement will apply using the original test date. (10/2/18)

### ***5.14 Validation of Examination Results and Revocation of Lists***

No examination shall be deemed to have been completed until the markings and results have been determined and the Commission has published an eligible list. An eligible list may be revoked and another examination ordered only when, in the judgment of the Commission, such action is deemed advisable by reasons of errors, fraud, or obviously inappropriate standards prescribed in connection with any examination. All applicants in the first examination shall be notified and shall be eligible to compete in the rescheduled examination without filing a separate application or the payment of an additional fee. No eligible list shall be altered or revoked except upon written notice to all persons whose standing may be affected and upon entry in the minutes of the Commission of the reasons for such alteration or revocation.

### **5.15 Examination Scores**

The detailed score of all applicants shall be kept on file by the Commission so long as the eligible list created from the examination remains in effect. These scores may be inspected at the office of the Commission upon request to the Commission Administrator or Chairperson of the Commission.

## **SECTION VI – ELIGIBLE LIST**

### **6.1 Posting of Lists**

The Commission, as soon as possible after every examination, shall prepare and keep on file for public inspection the list of applicants who have passed the examination and who are otherwise eligible for appointment to the position or class of positions for which the examination was held. All applicants who receive a final average rating of seventy (70%) percent or more in all examinations shall be placed on the eligible list in the order of their relative standings as determined by combining their examination points and additional credits together with the date on which they are entered on the list and the date of their examination. (10/2/18)

### **6.2 Rank**

Whenever two or more applicants competing for the same position(s) have the same standings, their respective priorities on the eligible list shall be the same as the order in which they scored on the examination. This is then followed by the order in which their applications were filed, provided that applicants eligible for veterans' preference under ORC 124.23 & 124.26 shall receive priority rank on the eligible list over non-veterans on the list with a rating equal to that veteran. (10/2/18)

### **6.3 Duration of Lists**

An eligible list expires upon filling or closing the position. An expired eligible list may be used to fill a position of the same classification within the same appointing authority for which the list was created. But, in no event shall an expired list be used more than one year past its expiration date. (10/2/2023, ord. 19-2023)

### **6.4 Transfer to Lower Class**

At the discretion of the Commission, the name of any eligible may, at any time, upon written request of the applicant, be transferred to the eligible list for a lower class in the same series requiring qualifications of the same general character. He shall be ranked thereon according to his original grade.

### **6.5 Removal from Eligible List**

Names may be removed from an eligible list only by action of the Commission for the following reasons:

- a) Request of the eligible
- b) Failure to accept appointment upon certification unless a waiver is granted by the Commission.
- c) That the applicant does not meet the physical, medical, or mental requirements of the position to which he seeks appointment, is addicted to the habitual use of drugs or intoxicating liquors to

excess, who has a pattern of poor work habits and performance with previous employers, has been guilty of a crime or infamous or notoriously disgraceful conduct, has been dismissed from employment for flagrant delinquency or misconduct, when determined to be unsuitable based on background check or if applicant has failed to be certified for appointment within the City of Broadview Hts. three or more times.

- d) Upon conclusion of a disqualification hearing
- e) Any other just and reasonable cause

### **6.6 Disqualification of Eligible Applicants**

If at any time after the creation of an eligible list, the Commission has reason to believe that any person whose name appears on any list is disqualified for appointment because of incapacity subsequent to his examination, because of deception or fraud in his application or in his examination or for other just and reasonable cause, such person shall be notified and given an opportunity to be heard. Such request must be sent by certified mail, with the return receipt requested, to the Civil Service Commission and postmarked within five working days upon receipt of notification. If such person fails to appear for the hearing or, upon being heard, fails to satisfy the Commission, his name shall be removed from such eligible list.

### **6.7 Change of Address and Phone Number**

Each person on an eligible list shall file with the Commission written notice of any change of address or phone number. Failure to do so may be considered sufficient reason for not certifying his name to the appointing authorities for future appointments. Such notice shall include the eligible name, the eligible list on which it appears, his new address and phone number, and his last address and phone number registered with the Commission.

## **SECTION VII – CERTIFICATION AND ORIGINAL APPOINTMENTS**

Appointments to all positions in the Classified Service that are not filled by transfer, reduction, or temporary appointments, as provided by the Rules and Regulations of the Commission, shall be made only from those persons whose names are certified to the appointing authority in accordance with the Rules of the Commission and the Ohio Revised Code. All certifications for performance of the job appointed shall be maintained according to the Oath of Office and job description given.

### **7.1 Number of Names to be Certified**

The Mayor, Fire, or Police Chief shall notify the Commission of the Classified Service to be filled. The Commission shall certify the names and addresses of the top ten names, or top 25%, whichever is greater, to the appointing authority. (10/2/18)

In the event that ten or fewer names are on the eligible list, the appointing authority may select any of the listed candidates. Once the Commission receives a list of eligible candidates for a position, the appointing

authority shall fill such position by appointment of one of the top 25% eligible certified applicants within 30 days. (10/2/18)

If more than one position is to be filled, the Civil Service Commission may certify a group of names from the eligible 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 remaining top 25% on the list who is willing to accept consideration for the position. If less than ten names remain on a list, then appointment from that list shall not be mandatory. This provision shall be interpreted and applied in a manner consistent with Ohio Revised Code 124. 27. (10/2/18)

## **7.2 Notice of Certification**

Written notice of certification stating the test scores, extra credit, and rank shall be mailed to his last address on file with the Commission at the time such certification is made to the appointing authority. (10/2/18) If an eligible shall not respond to such notice or cannot be located by the postal authorities, he shall be removed from the eligible list. However, if such eligible shall make it apparent within 30 days after the mailing of such notice that he was unavoidably and without fault on his part prevented from responding to such notice, he may be restored to the eligible list from which he was removed, according to his percentage of standing for such list for future consideration to appointment.

## **7.3 Certification Not More than Three Times**

A person certified from an eligible list more than three 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.

## **7.4 Notification of Appointment**

The appointing authority shall forthwith report to the Commission the name of such appointee, the title of the position, the duties and responsibilities of same (job description), the salary or compensation thereof, and such other information as the Commission may require in order to keep its roster

Eligible applicants certified and not appointed shall thereupon be restored to their proper position upon the eligible list, except as otherwise provided. In the event that the eligible appointed shall decline the appointment or shall fail to accept the same or shall fail to respond to the notice as above provided, the appointing authority shall make no appointment but shall immediately notify the Commission of such fact. The Commission thereupon shall remove such eligible from the list and make a new certification to the appointing authority.

## **7.5 Waiver of Certification**

Eligible applicants on any list may waive certification before, but not after being certified, upon giving reasons in writing satisfactory to the Commission. If the reasons assigned are not approved by the Commission, an eligible may be removed from the list. Within 30 days thereafter, an eligible so removed may be restored to the list provided satisfactory reasons for such action are presented to and approved by the Commission. An eligible person filing a waiver shall not be entitled to certification as long as his waiver

remains on file and is not withdrawn, but no waiver shall be permitted for a longer period than six months, after which time if the waiver is not withdrawn, the eligible shall be removed from the list. A second waiver to the same list shall not be allowed.

### **7.6 Probationary Period; Probationary Removal or Reduction**

All original appointments, including provisional appointments to the police and fire departments, shall be for an uncontestable probationary period of one year of active service (provided for purposes of this section, the term 'year' shall include not less than 2080 hours of active service). Service as a provisional employee in the same or similar class shall be included in the probationary period. No appointment shall be final until the appointee has satisfactorily served his probationary period.

Unless the probationary appointee has been removed or reduce earlier, the appointing authority, at any time during the ten-day period before the end of the probationary period, shall inform the Commission, in writing, of his decision to remove such appointee. If the appointing authority's decision is to remove the appointee, his communication to the Commission shall state the reason for such decision.

### **7.7 Emergency and Temporary Appointments**

In case of an emergency, a temporary appointment may be made without regard to the Rules and Regulations of the Commission but shall in no event continue longer than six months, nor shall successive temporary appointments be made. Temporary appointments made necessary by reason of sickness or disability of the regular employee shall continue only during such period of sickness or disability. All such emergency appointments shall be made, insofar as practical, from the class or grade of positions immediately below the class or grade in which the vacancy exists and shall be promptly reported to the Commission by the appointing authority.

### **7.8 Age Requirements**

No Person shall be eligible to receive an original appointment to the Police Department unless the person has reached the age of 21 on or prior to the date of the exam. No person shall be eligible to receive an original appointment to the Fire Department unless the person has reached the age of 18 on or prior to the date of the exam. No person shall be eligible for an original appointment for either department on or after their 40 birthday(10/2/23, ord. 19-2023). Applicants attaining the age of 40 during the certification process shall be notified in writing of their removal for appointment consideration on the certified list(10/2/23, ord. 19-2023). The Maximum age for employment with the Police and Fire Department shall be 67 (10/2/18).

### **7.9 Physical Requirements**

No person shall be eligible to receive an original appointment to either department unless they have passed a physical exam in accordance with ORC 124.41 & 124.42 no more than 120 days prior to the date of such appointment. Such physical must certify that the applicant is free of cardiovascular and pulmonary diseases and meets the physical requirements necessary to perform their duties as required. Copies of the physical exam report will be filed with the Police and Firemen's Disability and Pension Fund by the appointed authority. The fee for the physical exam shall be paid by the Commission. (10/2/18)

## 7.10 Rating of Competitors

- a) **Examinations** - The passing grade in all such examinations shall be a total of 70%.
- i. **Written Examinations** – The total examination grade attainable in each examination shall be 100 points.

In examinations composed of more than one part, the method of scoring shall be:

- Each part of the examination shall be separately rated, and the proficiency of each competitor will be determined on the basis of a scale of 100 for maximum possible attainment.
  - Each part shall be assigned a weight, which shall be based on the relative value of the part to that of the entire examination expressed in terms of percent of the total.
  - The total examination grade or 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 total examination grade for the participant.
- ii. **Physical Agility Exam** -Physical examinations, when required, shall include tests of bodily condition, muscular strength, agility, and physical fitness to perform the work of the position. When physical assessments are requested by the Commission, the Commission shall designate who will administer the physical assessment. The person(s) or company so designated shall submit verification of attaining a passing score as set by the Commission in the announcement in order to allow the Commission to certify the applicants' qualifications. (4/24/09) An OPOTA Academy graduate of one year or less does not require a physical agility test. (2/7/2023)
  - iii. **Medical and Psychological Examinations** - When medical and psychological assessments are requested by the Commission, the Commission shall designate who will administer said examinations. The person(s) or company so designated shall submit a full report as to the suitability of the applicant for the position in order to allow the Commission to certify the applicant's qualifications. Said results shall be used solely to determine an applicant's eligibility for appointment, and results shall not become a part of the applicant's grade resulting from examination or earned additional credits. Psychological results will not be a part of the applicant's permanent record and will be used solely by the Commission and appointing authority to determine the applicant's suitability to perform the required duties of the job. Except as otherwise needed to determine the applicant's suitability for hire, all results thereafter will be permanently sealed and released only upon order from a court of competent jurisdiction. (10/2/18)

- b) **Additional Credit** – Provided the applicant receives a total passing grade of 70% on the examinations, additional credit may be granted for military service, college degree, and City

Service. Such credit shall not be a part of but shall be a credit to be added to the applicant's earned grade resulting from the competitive examination. (10/2/18)

Under no circumstances will more than 10 points be awarded from one or any combination of extra credit criteria. (10/2/18)

- i. **Military Credit** - When Proper proof of an undeleted honorable discharge (DD214 box #1-30) from the armed forces of the United States is submitted to the Commission with the application, a candidate for entrance examination shall be granted additional credit. Any person who has completed service in the uniformed services, who has been honorably discharged from the uniformed service or transferred to the reserve with evidence of satisfactory service, and who is a resident of this state and any member of a reserve component of the armed forces of the United States, including the Ohio National Guard, who has completed more than one hundred eighty days of active duty service may file a certificate of service or honorable discharge shall receive additional credit of 1 point for each full year thereafter up to a maximum total of 10 points to the passing grade. 2.5% beginning at 180 days of active service and 2.5% each full year thereafter, up to a total of 20% of the passing grade. (ORC 124.23 (C) (I) Such credit does not apply to promotional examinations. (10/2/18)
- ii. **College Credit** for Original Appointment - An applicant who has earned an Associate or Baccalaureate degree from an accredited institution may receive an additional credit of 2 points for an Associate or 4 points for a Bachelor. Proper proof of degree granted, that being an official college transcript or copy of diploma, must be submitted at the time of filing the application. Such credit will be factored by the candidate's total passing examination grade. (10/2/18)
- iii. **City Service** - An additional credit of 8 points shall be granted to City employees who are in good standing with a minimum of one year of employment (10/23) as part-time employees and are moving to full-time status, within the same job classification, in either the Police or Fire Department (12/16). City service credit shall only apply to entrance-level examinations. (10/2/18)
- iv. An applicant who is an active Ohio Peace Officer or has a valid Certificate of Completion from the Ohio Peace Officer Training Commission (OPOTC) dated one year or less from the time of application may receive an additional 2 points. (2/7/2023)

## SECTION VIII - PROMOTIONS

### 8.1 Promotions

Vacancies in positions in the Classified Service shall be filled insofar as possible from persons holding positions in a rank lower than the position to be filled in the department and class from which the opening

exists. Promotion in the classified service is made based on merit and by conduct and capacity in office (ORC 124.31)

### **8.2 Promotional Examinations**

Whenever there is a vacancy in a position in any department above the lowest grade, the Commission shall ascertain whether there are at least two employees in the next lower rank who have served according to the rules established by the Commission. Whenever the Commission determines there are less than two employees holding positions in the rank lower than the position to be filled, the Commission shall allow employees holding positions in the next lower rank to compete with the employees holding positions in the rank lower than the positions to be filled.

In no case shall any person be considered for the position of Chief unless he has served a minimum of seven years full-time with that department in the City of Broadview Heights. (4/24/09)

Employees having less than five years of seniority within the department will not be eligible for supervisory promotions.

Employees in Supervisory positions will not be eligible for promotion unless they have served a minimum of one year in a lower-class supervisory position in the Police Department and at least two years in the Fire Department.

Promotions shall, in every case, involve a definite change in duties and an increase in compensation.

### **8.3 Separate Examinations for Police and Fire**

Separate examinations shall be given, and separate eligible lists shall be maintained by the Commission for promotional appointment in the Fire and Police Departments. No person may be transferred from one list to the other. Appointments of promotion in the departments shall only be from the separate eligible lists maintained for each department. Transfers of personnel from one department to the other are prohibited. Employees who wish to take a promotional exam in the fire department must first show proof of being a current State of Ohio certified paramedic.

### **8.4 Rating of Competitors**

- a) Exam and Assessment – Promotional testing shall be conducted by "Industry Professionals" qualified to determine duties associated with the particular job classification that the applicant seeks to occupy. The promotional appointments shall be determined by a percentage score total of two distinct categories, each of which carries its own weight to equal 100 %. They are as follows:

|                      | Police Department |     |      | Fire Department |             |     |
|----------------------|-------------------|-----|------|-----------------|-------------|-----|
|                      | Chief             | Lt. | Sgt. | Chief           | Asst. Chief | Lt. |
| General Written Exam | 60%               | 70% | 75%  | 60%             | 70%         | 75% |
| Oral Assessment      | 40%               | 30% | 25%  | 40%             | 30%         | 25% |

- i. **General Written Exam** – The written exam shall consist of several parts, that being; technical, supervisory, administrative practices and legal. The passing grade in all such examinations shall be a total of 70%.
- ii. **Oral Structured Interview and Assessment** – This exam will be conducted by a qualified testing and evaluation service determined by the Commission and shall consist of measurement in leadership and supervisory ability, decision-making and communication skills. The passing grade shall be a total of 70%.

In the event there are only Lieutenants testing for the Police Chief position, there shall only be an oral assessment. No general written exam shall be required. The oral assessment will count for 100% of the promotional testing. If there are both Lieutenants and Sergeants testing for the Police Chief position, the rules stated above shall apply. (9/3/2024)

Whenever it is determined that there are less than four candidates eligible for promotion, then the "Rule of Three" is in effect; the top three promotional candidates must be considered. (10/2/18) the General Written Exam shall equal 100% of the total score. Each passing candidate will then complete an administration leadership assessment for promotional consideration. The assessment will be conducted by a qualified agency of the Commission's choice (8/4/10).

#### **Rule of Three for Fire and Police**

##### **Fire Department**

- A. When, in the Employer's sole determination, a vacancy or vacancies exist in any of the ranks, the Employer shall make such promotional decisions consistent with the following Rule of Three:
  - For one vacancy, the promotional selection will be made from the three persons standing highest on the Civil Service Eligibility List. For example, for 2-4 candidates, add 2 to the number of vacancies.
- B. The Employer shall utilize the Civil Service Rules and Regulations to establish the eligibility list (10/2/18).

##### **Police Department**

- A. When, in the Employer's sole determination, a vacancy or vacancies exist in any of the ranks, the Employer shall make such promotional decisions consistent with the following Rule of Three: for one vacancy, the promotional selection will be made from the three persons standing highest on the Civil Service Eligibility List.
  - For 2-4 vacancies, add 2 to the number of vacancies.
  - For 5-8 vacancies, add 4 to the number of vacancies.
  - For 9-12 vacancies, add 6 to the number of vacancies.
  - For 13-16 vacancies, add 8 to the number of vacancies.
- B. The Employer, at its sole discretion, may use any and all evaluation methods including outside professional assessment, etc., to rank candidates for promotional consideration.

- C. The Employer shall utilize the Civil Service Rules and Regulations to establish the eligibility list.
  - D. In the event the Employer makes a temporary, provisional, or emergency promotional appointment of a member in accordance with the Civil Service Rules and Regulations, the member shall be entitled to the pay applicable to the position to which the member was appointed on a temporary, provisional or emergency basis, during the term of such appointment. No such temporary, provisional, or emergency appointment shall be construed to entitle the member to a promotional appointment on a permanent basis as described above. (10/2/18)
- b) **Additional Credit** - Provided that the applicant receives a total passing grade of 70% on the examination, additional credit may be granted. (10/2/18)

i. **College Credit** – College shall be added as extra credit. College credit will be given to candidates submitting a copy of the degree granted by the closing date and time posted for intent to participate in the examination. Such credit shall only be factored to applicants achieving a minimum passing score of seventy percent on the promotional examination. Credit shall be granted equal to 2 additional points for an associate degree or four additional points for a bachelor's degree. (1/17/03)

ii. **Seniority** - Seniority credit shall be rated according to each employee's anniversary date with the department and shall be applied relative to the date of the exam.

Employees taking promotional examinations shall receive credit for seniority and experience, which shall be based on the following scale:

Credit for seniority shall be given as follows: one point shall be added for each of the first four years of service, and six-tenths of a point shall be added for each year for the next ten years of service. In computing the credit for seniority, half of the credit specified in this paragraph shall be given for a half year of service (ORC 124.45)

## **8.6 Inspection of Examination Papers**

Any competitor, upon request to the Commission, shall have the right to inspect his examination report.

- a) **Prior to Grading:** Participants in any promotional examination may inspect the examination questions together with the answer key for objective tests for a period of not more than five days after the date of the written test (Sundays and Holidays excluded). An appointment to view the questions and answer key shall be made with the Commission Administrator or, in his absence, with the Commission Chairperson. Participants can make notes on any disputed questions. Any protest by a participant as to the questions asked or the answer key must be filed in writing with the Commission Secretary within the five-day period and must contain detailed supportive information and authority. Immediately following this inspection period, the Commission shall carefully consider all objections and make such changes in the answer key as are warranted, after which the answer key adopted shall be used in the actual scoring of the examination papers. Civil Service rules shall prevail in all areas of inspection of examination papers (3/19/10).

The examination papers of each applicant shall then be graded, and each competitor shall be notified by email of his grade. (2/7/2023)

- b) **After Notice of Grade has been Received:** Each participant shall have the right to inspect his examination papers together with the answer key within five days of the notification of his grade (Sundays and Holidays excluded) and to inform himself as to the markings given to him in each subject or question. (2/7/2023) An appointment to view the test paper and answer key shall be made with the Commission Administrator or, in his absence, with the Commission Chairperson. Any protest regarding errors in scoring objective tests or grading essay tests must be filed in person by appointment with the Commission Administrator. (10/2/18)

The Commission shall then consider all protests and make such changes as are warranted. The Commission shall then establish the eligible list, and no grades given in any examination shall be changed after the posting of any eligible list except that the Commission may correct clerical errors of examiners or employees at any time before the expiration of such lists.

### **8.7 Certification**

Certification of all eligible promotional positions in the Classified Service shall be made only from those persons who have achieved a final passing score of Seventy Percent (70%). The certified list for promotional appointments shall be fixed by the Commission for no less than one year or more than two years unless no eligible candidates remain for appointment. (4/24/09)

### **8.8 Probationary Time, Probationary Removal or Reduction**

All promotional appointments, including provisional appointments to the police and fire departments, respectively, shall be for an uncontestable probationary period of one-year of active service. Service as a provisional employee in the same or similar class shall be included in the probationary period. No appointment shall be final until the appointee has satisfactorily served his probationary period.

### **8.9 Interrupted Service**

When service in the City's Classified service 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 but shall not be credited towards probationary service. No additional credit for military service shall be allowed in promotional examinations for police or fire departments.

### **8.10 Special Positions**

If within any rank of the police and fire departments, special positions having special duties with preferential pay are established, as otherwise provided by law, such special positions shall not establish

eligibility to the next higher rank to the exclusion of other persons in the same rank who do not hold such special positions. No special position established within the rank in a fire or police department shall be filled without promotional examination in the same manner as promotions from rank to rank.

### **8.11 Filling Vacancies**

Whenever a vacancy occurs in a promoted rank in a police or fire department, and no eligible list for such rank exists, the appointing authority shall certify the fact to the Civil Service Commission, and the Commission shall, within 60 days of such vacancy, conduct a competitive promotional examination. After such examination has been held, an eligible list shall be established, and the Commission shall certify to the appointing authority the name(s) of the three persons receiving the highest grade. Upon such certification, the appointing authority shall appoint one of the three persons so certified within 30 days for the Police Department and within 10 days for the Fire Department. (4/24/09) Where the appointing authority chooses to appoint an eligible other than the top scorer, the appointing authority shall advise the eligible and the commission in writing of the reason for choosing the appointment.

When an eligible list is in existence, and a vacancy occurs in a position for which the list is established, the appointing authority shall certify the fact to the Civil Service Commission. The three persons standing highest on such list shall be certified to the appointing authority, and one of the three persons shall be appointed within 30 days for the Police Department and within 10 days for the Fire Department. (4/24/09) Where the appointing authority chooses to appoint an eligible other than the top scorer the appointing authority shall advise the eligible and the commission in writing of the reason for choosing the appointment. (ORC 124.44, 124.45, 124.48)

## **SECTION IX – TRANSFERS, REINSTATEMENTS, AND LAYOFFS**

### **9.1 Layoff Procedures**

Whenever it becomes necessary in any office or department other than the police and fire departments through lack of work or lack of funds to reduce the number of employees within a class, provisional appointees, if any, shall be next to be laid off.

### **9.2 Layoffs or Reductions in The Police and Fire Departments**

Whenever it becomes necessary in the police and fire departments, through lack of work of funds, or for causes other than outlined in Section X to reduce the force in such department, the youngest employee in point of service shall be first laid off. Should a position in the police or fire department, once abolished or made unnecessary, be found necessary to be recreated or reestablished within three (3) years from the date of abolishment, or should a vacancy occur through death, resignation or any other cause within three (3) years from the date of abolishment of the position of layoff, the oldest employee in point of service of those laid off shall be entitled to the position, providing he was at the date of his separation a regular and permanent employee. When a position above the rank of patrolman in the police department and above

the rank of regular fireman in the fire department is abolished, and the incumbent has been permanently appointed, he shall be demoted to the next lower rank and the youngest officer in point of service in the next lower rank shall be demoted, and so on down until the youngest person in point of service has been reached, who shall be laid off.

### **9.3 Establishment of "Layoff" List**

The names of persons holding permanent positions in the Classified Service which have been abolished or made necessary to be placed by the Commission on an appropriate "layoff" list in order of their original appointment and for a period not to exceed one year, shall be certified to all appointing authorities as in the case of original appointments. Whenever discontinued positions are reestablished by an appointing authority and a request is made for certification of eligible, former employees of the department in question who have been laid off and whose names appear on the "layoff" list shall be first to receive appointment in reverse order of their layoff.

### **9.4 Reinstatements**

Any permanently appointed employee who has resigned without delinquency may be reinstated, without requisition upon the Commission, by an appointing authority at any time within one (1) year from the date of such separation, provided there are no former employees of the department who have been laid off and whose names appear on the eligible list for the class. A notice of such reinstatement shall be sent to the Commission for its approval. Any person holding an office or position under the classified service in a fire or police department who is separated therefrom due to injury or physical disability incurred in the performance of duty shall be reinstated immediately, or one suffering injury or physical disability incurred other than in the performance of duty may be reinstated upon filing with the chief of the department, a written application for reinstatement, to the office or position he held at the time of such separation, after passing a physical examination showing that he has recovered from the injury or other physical disability and capable of performing the required duties. The physical examination shall be made by a licensed physician designated by the Commission within two weeks after the application has been made, provided that such application for reinstatement is filed within five (5) years from the date of separation from said department and further provided that such application shall not be filed after the date of service eligibility retirement.

Any person holding an office or position under the classified service in a police or fire department who resigns therefrom may be reinstated to the rank of fireman or policeman upon the filing of a written application for reinstatement with the

Commission and a copy thereof to the chief of said department, and upon passing a physical examination disclosing that the person is physically and or psychologically fit to perform the duties of the office to which he seeks reinstatement. The application for reinstatement shall be filed within one year from the date of resignation. Any person reinstated pursuant to the authority of this paragraph shall not receive credit for seniority earned prior to said resignation and reinstatement, and shall not be entitled to reinstatement to a position above the rank of fireman or patrolman, regardless of the position the person may have held at the time of his resignation.

### **9.5 Sick Leave**

Employees may use sick leave upon approval of the responsible administrative officer of the employing unit for absence due to personal illness, pregnancy, injury, exposure to a contagious disease that could be communicated to other employees, and illness, injury, or death in the employee's immediate family. SICK LEAVE (ORC 124.38)

The appointing authority of each employing unit shall require an employee to furnish a satisfactory written, signed statement to justify the use of sick leave. If medical attention is required, a certificate stating the nature of the illness from a licensed physician shall be required to justify the use of sick leave. Falsification of either a written, signed statement or a physician's certificate shall be grounds for disciplinary action, including dismissal.

### **9.6 *Leave of Absence***

The appointing authority may grant a personal leave of absence to an employee in the Classified Service for a period of not to exceed six (6) months or as otherwise provided by law. Upon expiration of such leave of absence, such officer or employee shall be reinstated, provided, however, that if the officer or employee is a provisional appointee, the leave of absence, if granted, is subject to the establishment of an eligible list and terminates automatically in case an eligible list for said position is established at any time during the period of leave of absence. All such leaves of absence granted by appointing authorities shall be referred to the Commission promptly for approval, in order that the civil service status of such absentees may be protected.

### **9.7 *Absence Without Leave***

Absence from duty without leave for any time will be considered neglect of duty and good cause for dismissal. Any employee in the classified service who absents himself from duty habitually or for three or more consecutive duty days without leave and without notice to his superior officer of the reasons for such absence may be subject to removal for neglect of duty. The resignation shall be entered upon the records of the Commission; provided, however, that at any time within 30 days, the person so absenting himself shall make an explanation in writing satisfactory to the Commission of the cause of absence, he may be reinstated to his position. Failure to report after a leave has expired or has been disapproved or revoked and canceled 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 his reinstatement.

### **9.8 *Physical, Medical, and Mental Examinations***

Whenever, in the judgment of the Commission, physical, medical, or mental qualifications are of importance, the person transferring, being reinstated, or returning from leave of absence, sickness, or layoff shall be required to pass such examination(s) and be certified as qualified in such respect before assuming his duties.

## **SECTION X – REDUCTIONS, SUSPENSIONS, AND REMOVAL**

### **10.1 *General Limitations***

No person in the Classified Service shall be reduced in pay or position, suspended, removed, or otherwise discriminated against for religious or political reasons or affiliations, for reasons of sex, race, creed, or color, or any other reason not connected with his value to the service.

### ***10.2 Tenure of Service***

The tenure of every officer or employee in the Classified Service of the City shall be during good behavior and efficient service and no such officer or employee shall be reduced in pay or position, suspended or removed except for incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of the ORC, the Ordinances or Laws of the City, or the Rules and Regulations of the Commission, or any other failure of good behavior, or any other acts of misfeasance, malfeasance, or nonfeasance in office.

### ***10.3 Procedure to Be Followed***

The appointing authority shall be charged with taking appropriate action against any non-probationary officer or employee violating such good behavior and efficient service responsibilities. A written report (reference exhibit C) of any such action, the period thereof, and the reasons, therefore, shall be filed immediately with the Commission.

- a) An officer or employee may be suspended for a period of not to exceed 24 working hours for purposes of discipline without the right of appeal. Provided, however, that successive suspensions shall not be allowed.
  
- b) In any case of reduction, suspension for more than 24 working hours, or removal, the appointing authority shall furnish such officer or employee a written order of such action, which shall contain one or more reasons for grounds for the action, together with such specifications of facts as shall place him fairly upon his defense. No such action shall become effective until such notice is served on such officer or employee.

### ***10.4 Appeal***

Within ten days following the filing of an order of reduction, suspension for more than 24- working hours, or removal, the non-probationary employee may file an appeal in writing with the Commission. In the event such an appeal is filed, the Commission shall forthwith notify the appointing authority and shall hear such appeal within 30 days from and after its filing with the Commission, and it may affirm, disaffirm or modify the judgment of the appointing authority.

## **SECTION XI – INVESTIGATIONS AND HEARINGS**

### ***11.1 Hearing Rules of Evidence; Representation by Counsel***

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 production of evidence on the hearing of appeals and the Commission's decision thereof shall be governed in general by, but need not strictly follow, the rules of evidence, proof, and burden of proof applied by courts in civil cases. The appellant and applicant may be represented by counsel.

### ***11.2 Time of Hearing; Notifications***

Upon receipt of a timely appeal, the Commission shall set a time and place to hear such appeal and shall provide not less than five days' written notice to the City's Director of Law and the appropriate parties as well as their attorney(s), if known.

### ***11.3 Amendments to Orders***

Amendments to the orders of removal, reduction in pay or position, or suspension for more than three working days may be made by the appointing authority at any time provided the employee and his attorney, if any, receive copies of the amended order prior to ten calendar days before the time set for the hearing as herein provided.

### ***11.4 Confidentiality of Hearings***

Hearings may be public except when the nature of the charge may be offensive to public morality and decency or upon the employee's or applicants' request, in which case the Commission may order the hearing closed to the general public.

### ***11.5 Presence of Witnesses***

Each party may call witnesses to testify in his 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 cases so require. Subpoenas shall be issued by the Commission Administrator for witnesses when requested by either party or by the Commission.

### ***11.6 Hearing Procedure***

All parties shall be permitted to introduce evidence at the appeal hearing. Hearings shall commence with a statement as to the nature of the appeal, complaint, or protest with oral statements given under oath. In appeals received from an employee or officer in the Classified Service of the City from an order or removal, reduction in pay or position, or suspension for more than 24 working hours;

- a) Hearings shall commence with a reading of the written statement of charges certified to the Commission. If the appellant has replied in writing to the charges, such reply shall be next read. If the appellant has not made a reply to the charges, he or his counsel may next make an oral statement of his objections to the charges. The appointing authority shall begin the introduction of evidence and shall have the final rebuttal. Closing arguments will be permitted only with the permission of the Commission.

- i. After notice of appeal is filed with the Commission, no material amendment may be made to the statement of the charges made at the time of demotion, suspension, or dismissal. If the appellant files with the appointing authority a written reply to the charges, such reply may not be materially amended. In all cases, the issues involved shall be confined to the truth or falsity of the allegations in the statement of charges.
  - ii. In appeals from the order of the appointing authority demoting, suspending, or removing any classified employee, the complete transcript of testimony and other evidence taken at the hearing before the appointing authority shall constitute the record. The record shall be filed with the Commission. Upon oral hearing, the Commission shall consider the record and may hear additional testimony and other evidence. In lieu of an oral hearing, an appeal may be submitted on the record before the appointing authority.
- b) Upon the completion of all evidence introduced, the Commission may render its decision immediately or may take the matter under advisement and render its decision within a reasonable time thereafter.
- c) A copy of the decision, including conclusions of fact supporting the decision, shall be transmitted to the appellant and, if appropriate, the appointing authority.
- d) If the appellant shall fail to appear at the time fixed for the hearing, the Commission may hear evidence and render judgment thereon. If, when appropriate, the appointing authority or his authorized representative fails to appear in support of his charges, the Commission may render judgment by default or may hear evidence offered by the appellant and render judgment thereon.
- e) Appeals of the decision of the Commission to the Court of Common Pleas shall be taken within 30 days from the date of notice of the finding of the Commission.

### ***11.7 Resignation before Final Action***

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.