

**CIVIL SERVICE COMMISSION OF THE  
CITY OF FOSTORIA, OHIO  
RULES AND REGULATIONS**

Revised and Adopted by the Fostoria Civil Service Commission:  
2019

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## **PREAMBLE**

The following rules and regulations are adopted in accordance with the authority conferred upon the Municipal Civil Service Commission of the City of Fostoria, Ohio, under the authority of Articles XV and XVIII and other provisions of the Constitution of the state of Ohio, ordinances of the City of Fostoria, Ohio, and Chapter 124 and other provisions of the Ohio Revised Code (R.C.).

Inquiries regarding civil service matters or rules should be addressed to the Civil Service Commission, City of Fostoria, 213 South Main Street Fostoria, Ohio 44830.

## **CIVIL SERVICE COMMISSION**

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Chair

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Vice Chair

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Member

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Clerk (Secretary)

## **RULE ONE**

### **APPLICABILITY OF RULES**

#### **1.01 Scope of Rules**

- A. These rules shall be applicable to all civil service matters except to the extent that the same are superseded or preempted by the specific terms, provisions, and content of a collective bargaining agreement entered into by and between the City and a public employee collective bargaining representative and a collective bargaining representative, pursuant to Chapter 4117 of the Ohio Revised Code, to the extent that said preemption is permitted by law.
- B. No person shall be appointed, removed, transferred, laid off, suspended, reinstated, promoted, or reduced as an officer or employee in the civil service of the City of Fostoria, Ohio, or in any manner or by any means other than those prescribed in these rules.

#### **1.02 Construction**

These rules are to be construed so as to carry out their purposes as determined from both the literal reading of the rules and their context. The rules should be construed and applied in a manner that is consistent with the laws of the state of Ohio, except to the extent that the letter or context of City ordinances indicate that the City intended to supercede, preempt, or otherwise override state law through a valid exercise of Home Rule. The rules should not be construed so as to limit the City's power to exercise Home Rule. Nor should the rules be construed in a way that limits the Civil Service Commission's power to interpret and apply the rules within the scope of their lawful authority. For the convenience of the Commission and the public, certain of these rules indicate instances where the City has elected to supercede state law.

The term "ordinance" in these rules is meant to include formal ordinances, resolutions, or any other actions of Council that are sufficient to carry out exercises of Home Rule or other powers of Council. References to "rules" and "regulations" are interchangeable, unless indicated otherwise.



### **1.03 Adoption, Amendment, Rescission**

Unless otherwise indicated, these rules, and any amendment, revision, or rescission of the same shall be in full-force and effect from and after their publication and adoption by the Civil Service Commission of the City of Fostoria, Ohio; provided that any rules that supercede state law and require amendment or an action of City Council for their effect will take effect in accordance with the amendment or the action of Council.

### **1.04 Publication**

No action of the Commission adopting a rule or regulation, or amendment, revision, or rescission of the same shall be effective until notice of the same with summary of its content has been prominently displayed in the place of employment of the City of Fostoria, Ohio which are frequented on a regular basis by classified employees and offices of said entities in the discharge of their official duties, and the content of the same has been made available for public review.

### **1.05 New Rules**

The present rules of the Civil Service Commission of the City of Fostoria, Ohio, shall continue in full force and effect until the amendments set forth hereinabove have been properly adopted. Upon the adoption of these amendments, the existing rules shall be rescinded, and these rules shall supersede and replace the same as the rules and regulations of the Civil Service Commission of the City of Fostoria, Ohio.

### **1.06 Saving Clause**

If any section or part of a section of these rules is held by a court of competent jurisdiction to be unconstitutional, or to be invalid for any other reason, said action shall not invalidate or impair the validity, force, or effect of any other section or part of a section of these rules, unless it clearly appears that such other section or part of a section of these rules is wholly or necessarily dependent for its operation under the section or part of a section which has been held invalid.

## RULE TWO DEFINITIONS

The terms herein specified, and as used in the rules and regulations of the City of Fostoria, Ohio Municipal Civil Service Commission, or in the administration of the civil service laws, shall be defined as follows:

- A. **"Appointing Authority"** means the officer, commission, board, or body having the power of appointment to, or removal from, positions in any office, department, commission, or board, and shall include the following:
  - 1. Mayor of the City of Fostoria;
- B. **"Available Vacancy"** means an existing funded position not currently filled by an incumbent that the appointing authority desires to fill. The existence of vacant positions on an appointing authority's table of organization shall not mean that a position is an available vacancy.
- C. **"Certification"** means the process of providing to an appointing authority the names on an eligible list or layoff list.
- D. **"Certified Eligible List"** means a list issued to an appointing authority of individuals available for employment from an eligible list.
- E. **"City"** is the City of Fostoria, Ohio,
- F. **"Civil Service"** includes all offices and positions of trust or employment in the service of the City of Fostoria, Ohio, and the Fostoria, Ohio, City School District.
- G. **"Classified Service"** means those persons in the employ of the City of Fostoria, Ohio, who are now in competitive civil service status due to their job positions pertinent to the local situation. All other employees and positions shall be "unclassified." Classified status may be determined as provided for in R.C. 124.11(A) or (C) or other Revised Code provisions, or by local ordinance. In any situation in which the status of an employee, as being either classified-or unclassified, is in issue, the burden shall be upon the appointing authority to establish such status by a preponderance of evidence.

- H. **"Clerk"** means the Clerk of the Civil Service Commission of the City of Fostoria, Ohio.
- I. **"Commission"** means the Municipal Civil Service Commission of the City of Fostoria, Ohio.
- J. **"Days"** means calendar days unless specified otherwise.
- K. **"Eligible"** means 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.
- L. **"Eligible List"** means a list of names and test scores of individuals who, through testing and meeting the other qualifications of a position, have been found qualified for the same, and each of whom has been afforded a specific rank - in the competitive classes the list shows competitive rank by arrangement based on total scores achieved.
- M. **"Employee"** means any person holding a position subject to an appointment, removal, promotion, or reduction by an appointing authority.
- N. **"He"** is a masculine pronoun which, whenever it or its derivatives are mentioned, shall include the feminine pronoun "she" and its derivatives.
- O. **"Position,"** when used by itself, shall refer to any specified 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.
- P. **"Position Classification"** refers to the arrangement of positions into classifications. Positions shall be classified in accordance with the duties and responsibilities of the position.
- Q. **"Promotion"** means the act of placing an employee in a position, the classification for which carries a higher salary range or rate than that of the position previously held by the employee.
- R. **"Rules"** means the rules and regulations of the Municipal Civil Service Commission of the City of Fostoria, Ohio.
- S. **"School District"** means the Fostoria City School District.
- T. **"Specification"** means a general description of a job classification specifying or giving examples of the kinds of tasks expected to be performed by employees

holding positions allocated to that classification; which may include classification title and number, a statement of job functions, a grouping of task statements by job duties (ranked by importance), approximate percentages of total job time required for the performance of each duty, worker characteristics or behaviors required for successful completion of all tasks within each duty, and minimum qualifications for competition for employment in the classification.

- U. **"Unclassified Service"** means all offices and positions that are exempt from civil serviced examination and which provide no civil service tenure under the law. Unclassified status may be determined as provided for in R.C. 124.1!(A) or (C) or other Revised Code provisions, or by local ordinance, and the rights of the affected employee are determined accordingly.
- V. **"Secretary"** means the Secretary of the Commission.

## **RULE THREE GENERAL PROVISIONS**

### **3.01 Appointments to the Commission**

The Mayor shall appoint three persons, one for a term of two years, one for a term of four years, and one for a term of six years, who shall constitute the Civil Service Commission of the City of Fostoria, Ohio. Each alternate year thereafter the Mayor shall appoint one person, as successor of the member whose term expires, to serve six years. A vacancy shall be filled by the Mayor for the unexpired term. At the time of appointment, not more than two members of the Civil Service Commission shall be adherents of the same political party.

### **3.02 General Duties of the Commission**

The Civil Service Commission shall:

- A. Prescribe, amend, and enforce rules not inconsistent with Chapter 124 of the Revised Code (except to the extent inconsistencies are adopted by Home Rule) for the classification of positions in the civil service of the City; for examinations and resignations for and resignations from positions; for appointments, promotions, removals, transfers, layoffs, suspensions, reductions, and reinstatements to those positions; and for standardizing positions and maintaining efficiency.
- B. Classify positions in the service of the City of Fostoria.
- C. Prepare, conduct, and grade or assign a person to prepare, conduct, and grade all examinations for positions in the classified service.
- D. Prepare and maintain eligible lists containing the names, scores, and rankings of all persons qualified for positions in the classified service.
- E. Maintain a journal which shall be open to the public for inspection, in which the Commission shall keep a record of all of its proceedings and of the vote of each of its members upon every action taken by it, along with a record of the Commission's final decisions pertaining to classification or reclassification of positions in classified service of the City and the assignment or reassignment of employees to specific position classifications.

F. Keep and maintain the following records:

1. a compilation and listing of all of the current and existing authorized positions within the civil service of the City ;
2. a current description as to the duties and responsibilities of the same; and retain on file documents and records related to job and employment actions as to each such position;
3. a record of all applications and all examinations conducted by the Commission;
4. service lists (rosters) of all persons in the civil service paid directly by warrant of the City, containing the information specified in Section 3/07 below.

G. Hear appeals provided for by law, including: appeals of appointing authorities from decisions of the Civil Service Commission relative to classification or reclassification of any position in the classified service under the jurisdiction of that appointing authority; appeals of employees in the classified service from final decisions of the employee's appointing authority relative to reduction in pay or position, job abolishment, layoff, suspension, fine, or discharge, or final decisions of the appointing authority or the Civil Service Commission relative to assignment or reassignment to a new or different position classification or a refusal to reclassify the employee's position; however, adverse actions based on certain felony convictions may not be appealed, per R.C. 124(A); furthermore a party may not file a second appeal from a decision of the Commission that results from an appeal - although the Commission may allow motions for reconsideration.

- H. Subpoena and require the attendance and testimony of witnesses and/or the production of books, papers, records, and other documentary evidence pertinent to any matter which the Commission has the authority to investigate, into which it has the authority to inquire, or which it has the authority to hear.
- I. Furnish to the Mayor any special reports that the Mayor requests and prepare and submit to the Mayor an annual report showing the Commission's actions, rules, exceptions thereto in force, and any recommendations for the more effectual operation of the Commission; the Commission shall also make reports from time to time as the State Personnel Board of Review (**SPBR**) requests of the manner in which the law and the rules and regulations of the Commission have been and are being administered in the City of Fostoria, Ohio; the Commission shall file its rules and an annual report with the SPBR (the annual report may be the same as that submitted to the Mayor).
- J. Prepare and submit to the Mayor an annual budget and request for appropriations for the next fiscal year of the City, which the Commission deems appropriate and sufficient to defray the costs and expenses of the operation thereof
- K. Appoint such additional referees (including hearing officers), inspectors, examiners, clerks, assistants, and/or other employees as are necessary to assist and serve the Commission in its exercise of its duties, powers, functions, and responsibilities, and/or contract for such services (e.g., consulting services to assist with classification of positions per R.C. § 124.14), provided that City Council has properly approved and appropriated the funds for the expense associated with the foregoing; furthermore, the Commission may delegate any functions it performs as the City equivalent of the Ohio Director of Administrative Services to any other City administrative office, or make use of such personnel or services as the City shall provide to assist the Commission.
- L. Exercise all other powers and perform all other duties with respect to the civil service of the City of Fostoria, Ohio, as prescribed in Chapter 124 of the Revised Code and conferred upon the Director of Administrative Services and the State Personnel Board of Review of the State of Ohio with respect to the civil service of the State of Ohio, except any powers or duties proscribed or superceded by Home Rule.
- M. The commission may allow electronic posting, filing and serving of documents. However, applicants, employees filing appeals, and other interested parties may not rely on this rule alone. If the Commission determines to allow the use of electronic posting or service for a particular purpose, the Commission will announce it through a website posting, exam notice or procedural order or similar means. If a person is unsure if it is allowed, he or she should contact the Commission's Clerk.

### **3.03 Officers, Agents, Salaries, and Expenses of the Commission**

#### **A. Election and Duties of the Chair and Temporary Chair**

At its annual organizational meeting, the Civil Service Commission shall elect one of its members as Chair of the Commission, who shall serve for the remainder of the calendar year. It shall be the duty of the Chair:

1. to call such meetings of the Commission as are necessary to transact the business and affairs of the Commission;
2. to sign the minutes of all actions take by the Commission;
3. to preside at all meetings of the Commission;
4. to ensure that the annual report to the State Personnel Board of Review required by RC. § 124.40 and the annual report to the Mayor are assembled and transmitted in a timely manner.

In the absence of the Chair, the remaining members of the Commission shall designate one of their number to serve as the Temporary Chair of the Commission, who shall act in place of the Chair.

#### **B. Appointment and Duties of the Clerk/Secretary**

The Commission shall appoint and employ a suitable person to act as Clerk to the Commission. In the absence of the Clerk, the Commission may designate a member of the Commission or another person to act as the Temporary Clerk of the Commission in place of the Clerk.

The Clerk to the Commission shall perform the following duties:

1. attend all meetings of the Commission and keep the minutes thereof;
2. keep in the form of minutes a record of the official actions of the Commission;
3. process all applications;
4. accurately and properly maintain all of the records of the Commission;
5. keep all files in proper order;



6. prepare and deliver, or cause to be delivered, notices, and other communications ordered by the Commission;
7. properly furnish appointing authorities with eligibility lists; maintain an official roster and service lists;
8. handle such correspondence as the Commission shall determine, including the preparation of the budget and annual report;
9. on authorization from the Chair, sign all warrants or orders for the payment of money on behalf of the Commission;
10. make available to the public those documents deemed to be public records under the terms of R.C. 149.43;
11. perform other duties as assigned by the Commission.

**C. Appointment of Special Hearing Officers, Examiners, Etc.**

The Civil Service Commission may appoint hearing officers, special examiners, etc., and make use of City resources, as provided in Section 3.02(K) above, and/or contract for the preparation of administration of examinations and other services.

**D. Expenses and Salaries of the Commission**

The expenses and salaries, if any, of the Commission shall be determined by City Council.

**3.04 Removal from the Commission**

Upon the receipt of a report from the State Personnel Board Review, charging a member of the Civil Service Commission with violating or failing to perform the duties imposed by law, or willfully or through culpable negligence violating the law by failure to perform his duties as a member of said Commission, along with the evidence on which the report is based, the Mayor shall forthwith remove the member. In all cases of removal, an appeal may be had to the Common Pleas Court of Seneca County, Ohio, as provided by law. The Mayor may at any time remove any member of the Civil Service Commission for inefficiency, neglect of duty, or malfeasance in office, having first given the member a copy of the charges against him, and an opportunity to be publicly heard in person or by counsel in his defense.

**3.05 Meetings of the Commission**

- A. The first annual meeting of the Civil Service Commission shall be its organizational meeting. The Commission shall hold such other meetings as may be called by the Chair of the Commission, or by two members thereof.
- B. All meetings of the Civil Service Commission are open to the public, except as set forth in R.C. 121.22 and this rule.
- C. General minutes shall be taken at all Civil Service Commission meetings and shall be open to public inspection.
- D. The Chair of the Commission 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 later than ten days from the date of notice of such meeting. 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.

- E. Twenty-four hours advance notice of any meeting of the Civil Service Commission must be given to the local news media and to other media that have requested notification, except in the event of an emergency requiring immediate official action. Any other person, upon request and payment of one dollar (\$1.00) per meeting, may obtain reasonable advance notice of all meetings at which any specific type of public business will be discussed.
- F. In the event of an emergency, the Chair, the members calling the meeting, or a designee must immediately notify the local news media concerning the time, place, and purpose of the meeting.
- G. An executive session may be held only after a majority of the members, by roll call vote, have approved such action. Such executive session may be convened to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a municipal employee, unless such employee requests a public hearing. The motion and vote to hold the executive session shall state which one or more of these purposes are the purposes for which the executive session is being held, but need not name the person who is to be considered during the session. Executive session may also be held for other reasons enumerated in R.C. 121.22 and the other laws and regulations incorporated therein. Minutes of any executive session shall be appropriate to the nature of such executive session.
- H. The order of business for meetings of the Commission shall be:
  - 1. roll call;
  - 2. disposition of unapproved minutes;
  - 3. reports;
  - 4. unfinished business;
  - 5. new business;
  - 6. adjournment.

### **3.06 Procedure for the Adoption, Amendment, or Rescission of Rules**

- A. Public notice as to the adoption, amendment, or rescission of any rule of the Civil Service Commission must be given to the local news media at least 30 days prior to the date set for hearing and consideration of the rule. Revisions following the initial notification are not subject to the 30 day notice requirement.

- B. The public notice must contain a statement of the Commission's intention to alter or adopt a rule, and a statement as to the subject matter of the rule to be affected. In addition, the notice must contain the date, time, and place set for the consideration of the rule change.
- C. A copy of the full text of any proposed rule or rule change shall be submitted to the Mayor at least ten days prior to the date set for consideration. Revisions following the initial submission are not subject to the ten day requirement, but substantial revisions should be submitted reasonably in advance of adoption.
- D. Sections (A) through (C) above do not apply to an emergency rule, amendment, or rescission or to any rule, amendment, or rescission required by state or federal law or regulation.
- E. Civil Service Commission rules shall be adopted at an open meeting by a majority vote and entered into the minutes. Interested parties may provide input in writing, preferably in advance, or offer written or oral input at the meeting(s) called to consider the rules or rule changes. Copies of the rules or rule changes, together with the minutes of the Civil Service Commission adopting the change, will be kept by the designee of the Commission and made available to any person upon request. Due notice of the contents of such rules and of all changes shall be given to appointing authorities affected by such rules, and such rules shall also be printed for public distribution.

### **3.07 Service Lists**

Separate rosters, known as "service lists," of the City of Fostoria, Ohio, shall contain the name of every person employed by the same; the date of his appointment; the title of his position; the date of termination of employment or separation therefrom, if any; the designation of said employee and the position in which he serves as being in the classified or the unclassified service of the City; and, in the case of an employee and/or position which is designated as being in the unclassified service, an indication of the reason and justification for such designation for purposes of the lists shall be created and approved by the Mayor of the City of Fostoria. In the case of rosters of classified positions, such rosters shall also show the dates of promotions, if any; the dates of suspension, if any; and in the case of termination of employment or separation therefrom, if any, the cause for same. Service lists shall be filed with the Civil Service Commission and kept by the Secretary/Clerk, and the lists shall be updated and revised periodically by written notice from the respective appointing authorities.

## **CHAPTER FOUR CLASSIFICATION**

### **4.01 Job Classification Plan**

- A. The Civil Service Commission shall establish and may modify or: repeal, by rule, a job classification plan for all classified positions, officers, and employees in the employ of the City of Fostoria
- B. Positions in Civil Service of the City of Fostoria, Ohio shall be classified in accordance with the classification plan which shall provide that any and all positions whose duties, responsibilities, and necessary qualifications are sufficiently alike as to so warrant, shall be allocated to the same class with a title which shall be descriptive of the duties performed, and which will allow for the assignment of pay ranges with equity.
- C. Where particular licenses or attributes, such as insurability, are essential characteristics or functions of a position, the class series specification may be amended to so reflect. Such amendments may be requested by the appointing authority or may be made independently by the Civil Service Commission, and must be reflected on the minutes of the Commission.

### **4.02 Job Reclassification and Job Audits**

When the Commission proposes to reclassify any employee so that the employee is adversely affected, the Commission shall give to the employee and to the employee's appointing authority a written notice setting forth the proposed new classification, pay range, and salary, and the Commission and the appointing authority shall issue the additional notices required in R.C. 124.14(D). Upon the request of any classified employee who is not serving a probationary period, the Commission shall perform a job audit to review the classification of the employee's position to determine whether the position is properly classified. The Commission shall give to the employee affected and to the employee's appointing authority a written notice of the Commission's determination whether or not to reclassify the position or to reassign the employee to another classification. The Commission may also determine the most appropriate classification for a position on its own volition, or at the request of an appointing authority.

## **CHAPTER FIVE CLASSIFIED AND UNCLASSIFIED SERVICE**

### **5.01 Division of the Civil Service into Classified and Unclassified Service**

The civil service of the City of Fostoria, Ohio shall be divided into the classified service and the unclassified service:

#### **A. Unclassified Service**

The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required under these rules:

1. all officers elected by popular vote, or persons appointed to fill vacancies in such offices;
2. the members of the commission, and the heads of departments appointed by the Mayor of the City of Fostoria, Ohio, except
3. employees of the City Council of the City of Fostoria, Ohio, who are engaged in legislative duties;
4. three clerical and administrative support employees for the City Council of the City of Fostoria;
5. Three clerical and administrative support employees for each of the principal appointive executive officers, boards, or commissions of the City of Fostoria, Ohio, authorized to appoint the same, except the Civil Service Commission of the City of Fostoria Ohio authorized to appoint the same, except the Civil Service Commission of the City of Fostoria, Ohio;
6. assistants to the Law Director of the City of Fostoria, Ohio;
7. such students in normal schools, colleges, and universities of the State of Ohio who are employed by the City in student or intern classifications;
8. such unskilled labor positions as the Commission may find it impracticable to include in the competitive classified service; provided such exemptions shall be by order of the Commission, duly entered on the record of the Commission with the reasons for each such exemption;

9. deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals; employees who receive external interim, intermittent, or temporary appointments under division (B) of section 124.30 of the Revised Code;
10. employees appointed to administrative staff positions for which the appointing authority is given specific statutory authority to set compensation; and
11. other positions designated as unclassified; ordinance, or law omission of any such unclassified position or person from the foregoing specific list of unclassifieds shall not be construed as an intention to render that person or position classified.

## **B. Classified Service**

The classified service shall comprise all persons in the employ of the City of Fostoria, Ohio, not specifically included in the unclassified service. The classified service shall consist of two classes, which shall be designated as the competitive class and the unskilled labor class:

1. The competitive class shall include all positions and employments in the service of the City of Fostoria, Ohio, for which it is practicable to determine the merit and fitness of applicants by competitive examinations. Appointments shall be made to, or employment may be given in all positions in the competitive class that are not filled by promotion, reinstatement, transfer, or reduction, as provided by ordinance, law, and these rules, - by appointment from those certified to the appointing officer in accordance with these rules.
2. The unskilled labor class shall include ordinary unskilled laborers. Vacancies in the labor class shall be filled by appointment from lists of applicants registered by the Civil Service Commission. The Commission shall require applicants for registration in the labor class to furnish such evidence or take such tests as the Commission considers proper with respect to the following: age; residence; physical and mental ability to perform the essential functions of the position applied for, with without reasonable accommodations, honesty, capacity, industry, and experience in the work or employment for which application is made. Laborers who fulfill the requirements shall be placed on the eligible list for the kind of labor or employment sought, and preference shall be given in employment in accordance with the rating received from such evidence or in such tests. Upon the request of an appointing officer, stating the kind of labor needed, the pay and probable

length of employment and the number of the employed, the Commission shall certify from the highest on the list double the number to be employed; from this number the appointing officer shall appoint the number actually needed for the particular work. If more than one applicant receives the same rating, priority in time of application shall determine the order in which their names shall be certified for appointment.



## **RULE SIX APPLICATIONS**

### **6.01 Generally**

All applications, whether for employment or for examination, must be personally signed and upon forms prescribed by the Civil Service Commission. All application forms must be completed in their entirety and legibly printed in ink or type written and submitted to the Civil Service Commission in a timely manner.

No applications shall be accepted after the date for filing has passed.

### **6.02 Forms-to include online electronic filings**

Application forms shall be provided by the Civil Service Commission and shall be available in the office of the Mayor or at other locations as announced by the Civil Service Commission.

To the extent that the same are reasonably necessary in the application process, the Civil Service Commission may require of applicants such references as to the character of the applicant provided by persons having knowledge of the same as the Commission may require.

The application forms of individuals who successfully complete applications, and are placed on eligible lists shall be retained by the Civil Service Commission during the effective period of the eligible list. The application forms of individuals who are appointed to or employed in any classified civil service position shall be retained by the Civil Service Commission during the tenure of said employee.

### **6.03 ResidencyRequirements**

Every applicant for a position in the classified service must be a citizen of the United States or must legally declare and signify in writing his intention to become, upon appointment, a citizen of the United States. Furthermore, every such applicant must be a resident of the state of Ohio or signify in writing his intention to become and remain, upon appointment, a resident of Ohio within six months, unless such requirements are specifically waived by ordinance or statute; except that no residency requirement applies to temporary or exceptional appointments (see Chapter 10 for a description of such appointments).

Any person appointed to a position in the classified or unclassified service under Ohio R.C. 124.01 through 124.64, or by ordinance, shall within one year from such appointment reside within a ten-mile radius from the intersection of the centerline of Main Street and Tiffin Street in the City and shall have private telephone communication from his residence with the City without toll charge. In the event either of the requirements is not fulfilled, the employee may be terminated. This section is to be applied retroactively to include all current employees, as this was the initial intent of the original ordinance. (Ord. 01-31. Passed 4 3-01.)

#### **6.04 Age Restrictions: Police and Fire**

##### **A. Police Minimum Age for Application and Maximum Age for Application and Appointment**

Applicants for original appointment examination to the Police Department must have attained the age of 21 years on or before the date of the written examination; furthermore, no person may apply for or receive an original appointment as a police officer if that person has attained the age of 35 years or older, and no person can be declared disqualified as over age prior to that time.

However, this section does not prevent the City from establishing a police cadet program or employing persons as police cadets at age 18 for the purposes of training them to become police officers.

##### **B. Fire Department Minimum Age for Application**

Applicants for original appointment examinations in the Fire Department must have attained the age of 18 years on or before the date of the written examination; furthermore, no person may apply for or receive an original appointment as a firefighter if that person has attained the age of 41 years or older.

#### **6.05 Fitness for Service**

- A. Every applicant appointed to or employed in the civil service shall be physically and psychologically able, with or without reasonable accommodation, to perform the essential functions of the position to which he is appointed, or in which he is employed.

- B. Applicants to whom conditional offers of employment in positions within the Division of Police and the Division of Fire of the City of Fostoria shall be required to undergo psychological evaluations, medical examinations, and drug testing administered by appropriate, licensed medical professionals selected and designated by the Commission, and to provide information as to their physical and psychological health which is relevant to their ability to perform the essential functions of the position in relation to which a conditional offer of employment has been tendered, with or without reasonable accommodation. The Civil Service Commission may order physical agility tests where applicable.
- C. The Commission may require that applicants to whom conditional offers of employment in positions within other divisions or departments have been tendered, undergo such medical examination or testing, or provide such information, on the condition that such requirements are uniform as to all positions within an employment classification

#### **6.06 Character and Fitness**

Satisfactory information produced at any time to the Civil Service Commission, either before or after examination, that an applicant has committed acts which demonstrate character traits which would be detrimental to the successful performance of the employment sought; or of his pattern poor work habits and performance with previous employees; or of his dismissal for good cause, including delinquency or misconduct, from any branch of public service; or for his conviction of a felony; or of his current illegal use of drugs; or of his infamous or notoriously disgraceful conduct; or that he, in relation to the application process, has made false statements of any material fact; or that, in relation to his application or examination, in establishing his eligibility, and/or in securing his appointment, the applicant has practiced, or attempted to practice any deception or fraud shall justify the Civil Service Commission, before an examination, in refusing to permit the examination of an applicant, or, after testing, in refusing to certify the applicant as eligible for employment or appointment. In relation to such inquiries the Civil Service Commission may require such certificate of persons having knowledge of the applicant as the good of the civil service may require.

#### **6.07 Education**

Every applicant shall have, and shall be able to demonstrate that he has completed a minimum of a high school education, or G.E.D. equivalent, as well as any other

education and training which is a prerequisite and requirement of the position for which he makes application, and shall provide the Civil Service Commission with reasonable and adequate proof thereof.

#### **6.08 Licenses and Certificates**

Every applicant shall have and shall be able to demonstrate that he has secured and holds such licenses and certificates which are prerequisites and requirements of the position for which he makes application, and shall provide the Civil Service Commission with reasonable and adequate proof thereof.

#### **6.09 Method of Filing**

Fully completed applications containing or accompanied by all of the information and accompanied by all of the documentation solicited by the application or the job notice, and executed by the applicant or his properly authorized agent, shall be filed with the Clerk of the Civil Service Commission or with such other employee or agent of the appointing authority as is indicated in the job notice. The date of the receipt of each application shall be noted on the same. The Clerk of the Civil Service Commission shall maintain registers which contain the name of each applicant, the date of the receipt of the application thereof, and the documents which accompany the same.

#### **6.10 Notice of Acceptance or Rejection of Application**

Whenever an application shows that an applicant is not qualified under these Rules for consideration for a position for which he has made application, or that the application is not in reasonable and substantial compliance with the same, the Clerk of the Civil Service Commission, or the Commission shall reject the application, and the Clerk, forthwith thereafter, shall afford the applicant written notice of said action and of the reason for the same. Applicants whose applications are accepted shall be given written notice of the date, time, and place of examination. Such notices shall be given at a reasonable time before the examination date, and shall apprise applicants that reasonable accommodations are available to disabled persons to afford them access to the examination process.

#### **6.11 Disqualification of Applicants**

The completed application and requested documentation, information, and material requested therewith and secured in relation thereto shall be the sole criteria in determining an applicant's eligibility for an examination. Information showing that an applicant meets all of the minimum qualifications as stated in an examination announcement must appear on the application itself. No additional information will be accepted after the application filing deadline. Failure of an applicant to indicate on his application the qualifications as to education, certification, licensing, or any other requirement shall be sufficient cause to exclude an applicant from examination. A defective or incomplete application may be corrected by the applicant, and resubmitted by the filing deadline. Certification of an individual to an eligible list who has not met all of the requirements of these rules shall not be considered a waiver of any requirements of the same, and shall not bar removal of the applicant from an eligible list by the Civil Service Commission as a result of said failure.

#### **6.12 False Statements**

Fraudulent conduct or false statements by the applicant, or by others with his connivance, in any application or examination shall be deemed cause for exclusion of an applicant from any examination, or for removal of his name from an eligible list, or for discharge from service after appointment or employment, provided that the name of no person shall be removed from an eligible list, and no person shall be dismissed from service under this provision without an opportunity to be heard by the Civil Service Commission. Where an applicant is excluded from an examination, he shall be heard by the Clerk of the Civil Service Commission.

#### **6.13 EEO Applicant Flow Information**

The Civil Service Commission shall design and approve for use a form to be used in documenting EEO applicant flow Statistics.

This EEO applicant information flow sheet shall be furnished to all applicants for employment or examination.

The completion of the EEO applicant flow information sheet by applicants for testing or employment shall be wholly voluntary, and no applicant shall be adversely affected in any way for having refused to complete such form.

Once completed, EEO applicant flow information sheets shall be physically separated from the application and separately filed as a confidential EEO compliance record.

#### **6.14 Application for Examination**

All applicants for positions in the classified service shall be subject to examination.

Examinations shall be open and competitive and shall be comprised of two types:

1. Original appointment examinations
2. Promotional examinations

#### **6.15 Police and Fire Separate**

Separate examinations shall be given for positions in the Police Department and Fire Department, and separate rules may apply with respect to each.

In both the Police Department and the Fire Department, different tests will be given for original and promotional appointments.

## **RULE SEVEN EXAMINATIONS**

### **7.01 General**

- A. All applicants for positions in the classified civil service shall be subject to examination, except for applicants for positions in professional or certified service, and as to all limitations set forth in these rules as to residence, education, license, certification, habit and moral character, and to the requirement that each applicant be able, with or without reasonable accommodation, to perform the essential functions of the position for which he has made application.
- B. Examinations may consist of one test, or of more than one test in combination. Tests may be written, oral, demonstration of ability to perform essential functions, or an evaluation of training and experience, and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the person for which appointment is sought. Where minimum or maximum requirements are established for any examination, the same shall be specified in the examination announcement.

### **7.02 Types of Examinations**

There shall be two types of examinations administered by the Civil Service Commission in accordance with these rules, to wit: examinations for original appointments, and examinations for promotion. Examinations for original appointments shall be open to all individuals who otherwise qualify for appointment to or employment in a position under these rules. With the exception of positions that require peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character as identified by counsel, examination for promotion shall be limited to members of the classified civil service who meet the requirements for promotion to a position under these rules.

### **7.03 Separate Examinations**

Separate examinations shall be given and separate eligible lists shall be maintained by the Civil Service Commission as to the respective appointing authorities within the jurisdiction of the Civil Service Commission, and as to separate positions and classifications within the service of the same. No person may be transferred from

one list to the other, but a single test or combination of tests may be utilized to examine and evaluate applicants for similar positions or classifications in the service of the two appointing authorities. Appointments and promotions shall be effected only from the separate eligible lists which are applicable. Transfers of personnel from one appointing authority to the other, between the Division of Fire and the Division of Police of the City, or between said Divisions and any other division or department of the City are prohibited.

#### **7.04 Examinations: Provisional Appointments**

- A. No competitive examination will be administered unless there are at least two applicants. In the event that only one person applies for an original appointment examination, a provisional appointment may be made; provided that the appointee otherwise meets the minimum qualification
- B. A person serving as a provisional employee who passes an examination for the position which he holds shall be appointed as a certified employee prior to the preparation of an eligible list by the Civil Service Commission.

#### **7.05 Examination Notices and Sites**

- A. Examinations for original or promotional appointments shall be held at such times and in such places as the Civil Service Commission deems appropriate, and shall be administered in accordance with the applicable sections of ORC 124 and these regulations.
- B. Printed public notice of each examination for **original appointment** in the classified service shall be placed in a newspaper of general circulation in the City on one occasion not more than 60 nor less than 30 days prior to the examination date. Copies of said notice shall also be sent by the Clerk of the Civil Service Commission to the Clerk of the Common Pleas Court of Seneca County, Ohio, with the request that it be posted in a conspicuous place in the Seneca County Courthouse, and posted by the Clerk of the Civil Service Commission. All notices shall include the time, place, and general scope of the competitive examination. Notices may also be posted electronically by the Clerk of the Civil Service Commission.
- C. Notice of **promotional examinations** shall be posted by the Clerk of the Civil Service Commission in conspicuous places in each department in which employees would be eligible to compete for such promotion. Such



notices shall be posted not more than 60 nor less than 30 days prior to the examination date, and shall include the time, place, and general scope of the competitive examination.

- D. Notices of all examinations for original appointments in the classified service may also be distributed to such persons or organizations as may be interested in the positions to be filled.
- E. The Commission may take such additional steps as it deems appropriate and advisable to effect notice of an examination, and to secure qualified applicants from the same.

#### **7.06 Scope of Examination: Subjects/Study Materials**

Examinations for original appointment may include written testing. Written tests may be prepared, conducted, and graded by disinterested persons retained by the Civil Service Commission.

Examinations shall be practical in character and shall relate directly to those matters which will fairly test the relative capability of the person being examined to discharge the particular duties of the position for which appointment is sought.

The Commission shall prescribe the subjects of each examination and the relative weights to be assigned thereto; provided that any such determination must have been made prior to the date of such examination.

#### **7.07 Original Appointment Exams: Police and Fire**

- A. In relation to examinations for positions within the Division of Police and the Division of Fire of the City, examinations for original appointments may include written testing, oral testing, and/or an assessment center.
- B. No applicant shall be tested orally or participate in the assessment center unless he has completed the applicable written test.
- C. If oral examinations of qualified applicants are given, they shall be prepared, conducted, and graded by an Interviewing Board designated by the Civil Service Commission. A minimum grade shall be identified by the test designer or the Civil Service Commission.

## **7.08 Medical, Physical, Psychological, or Drug Testing**

### **A. General**

Whenever physical or psychological qualifications are of especial importance, the applicant shall be required to pass a physical or psychological examination and be certified as qualified in such respect, whether before admission to the examination, or before being placed on the appropriate eligible list, or before certification for appointment, as the Commission may deem advisable.

### **B. Controlled Substances**

Such examinations shall include a screening for the use of controlled substances..

### **C. By Whom Conducted**

Physical, psychological, or drug screening examinations, whenever required by the Commission, shall be made by a licensed or certified professional designated by the Commission, who shall furnish a certificate as to the applicant's fitness for duty, with or without reasonable accommodation.

### **D. Results Confidential**

The results of physical, psychological, or drug screening examinations shall be used solely to determine an applicant's eligibility to take an examination, or eligibility for appointment after an examination, and shall not become a part of the applicant's examination score. Records of such examinations shall be treated as confidential medical records to the extent required by law.

### **E. Reasonable Accommodation**

Any applicant or candidate who feels that he has been adversely affected by the physical element may request that a "reasonable accommodation" be investigated by the appointing authority.

Requests for such accommodation must be filed as soon as reasonably possible, must be in writing, and must outline the accommodation requested.

Such requests must be filed with the Commission and with the Appointing Authority.

The Commission will then schedule an informal fact-finding meeting to discuss the issue of accommodation and will release its finding within five working days of the conclusion of the informal fact-finding. Such meetings will be held in executive session.

#### **7.09 Admission of Applicants to Examination**

- A. No applicant shall be admitted to any assembled examination more than thirty (30) minutes after the advertised time of beginning such examination, nor after any applicant competing in any such examination has completed his work and left the examination room, whichever shall occur earlier, except by special permission of the person in charge, who, in his discretion, may admit the applicant conditionally, subject to the final approval or disapproval of such admission by the Commission.
- B. Any applicant admitted to an assembled examination after its advertised time of beginning must complete the examination at the advertised ending time, and shall receive no extension of time, except as set forth in 7.11, *infra*.

#### **7.10 Identity of Entrance Examiners Concealed**

The identity of all persons taking competitive entry level assembled examinations shall be concealed by the use of an identification number which shall be used on all examination papers. Each applicant who is admitted to the examination shall be assigned a number by which that applicant shall be known during the examination and consideration process. Any examination bearing the name of the applicant or any other identification mark shall be rejected and the candidate so notified.

#### **7.11 Extension of Time in Examination**

No applicant shall be given a longer time on any subject than has been prescribed by the Commission for the completion of an examination.

Separate time limits may be established as a reasonable accommodation to a handicapped or disabled applicant

Requests for additional time, or accommodation, must be submitted with supporting documentation at the time of filing application for the examination.

**7.12 Visitors at Examinations**

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

**7.13 Postponement or Cancellation of Examination**

A scheduled examination may be \_cancelled or postponed by order of the Civil Service Commission, for any adequate reason. Reasonable efforts shall be made to notify each qualified applicant of the cancellation or postponement and will include written notice to the applicants last known post office address, except under circumstances which make written notice not practicable.

**7.14 Waiver**

In the event an individual who has not met the requirements of these rules is permitted to take an examination, the same shall not be deemed to be a waiver of any requirements established by these rules.

**7.15 Promotional Examinations**

- A. Vacancies in positions in the classified service shall be filled insofar as practicable by promotions. All examinations shall be competitive and may include written tests, oral tests, and/or assessment centers, and shall relate to those matters which - test the ability of the person being examined to discharge the particular duties of the position sought.
- B. The identity of all examination applicants shall be concealed by the use of an identification number which shall be used on all examination papers. This identification number shall be used from the beginning of the examination until all the examination papers have been rated. Any papers bearing the name of the applicant, or any other identification mark, shall be rejected and the applicant so notified.

#### **7.16 Limitation on Original Appointments: Police and Fire**

Positions above the rank of police officer in the Division of Police or regular firefighter in the Division of Fire may not be filled by original appointment, except the position of Chief of Police and Chief of Fire. (See also 10.09.)

#### **7.17 Promotional Examinations: Fire**

- A. Promotional examinations for positions within the Division of Fire shall relate to those matters which test the ability of the person examined to discharge the particular duties of the position sought and may be in writing or other forms, provided, however, that in examinations for positions requiring the operation of machines, or equipment, practical demonstration tests of the operation of such machines or equipment may be part of the examination, so long as said demonstrations and tests afford consideration of reasonable accommodations which may be necessary for disabled persons to permit them to perform the essential functions of the position to which appointment is sought.
- B. The public notice of a holding of a promotional examination for a position or positions in the Division of Fire shall, unless waived by all persons eligible to participate, be published not less than 30 days prior to the examination, and shall contain a description of the source of the material from which any written examination questions are prepared. Such source material shall be readily accessible to the examinees. Failure to comply with this requirement shall render void the pursuant examination. This paragraph shall not prohibit the use of questions having answers based upon experience in the fire service within the Division of Fire of the City of Fostoria, Ohio;

**RULE EIGHT**  
**GRADING, ADDITIONAL CREDIT, AND**  
**INSPECTION**

**8.01 Minimum Passing Score**

- A. The Civil Service Commission shall endeavor to ascertain the minimum passing grade; as determined by the compiler of any professionally prepared civil service test. When available in advance, this information will be included on all test notices.
- B. Applicants must achieve the minimum passing score, excluding any additional credits provided by these rules, as a prerequisite for further consideration for employment or appointment, and for certification to an eligible list.

If the test includes multiple portions, for example, the use of a written test plus an oral test, the Commission will score all portions of the test before determining that an applicant can receive extra credit that can only be granted to those achieving the minimum, 70% passing score (for example, seniority credit on a promotional exam).

**8.02 Original Appointment Veteran's Credit and Veterans Preference**

Any applicant for original appointment who is a resident of Ohio, who is a veteran of military service as described in R.C. 124.23, who was honorably discharged or transferred to reserve duty with evidence of satisfactory service, and who otherwise meets the qualifications of that section, may file with the Commission a certificate of military service or honorable discharge for extra credit for military service. The applicant must submit proof of prior to participation in the examination. The Commission shall grant additional credit of 20% of the total grade given in the regular examination to any applicant who files for the extra credit and qualifies, provided that he has first received a passing grade on the examination.

Such requests for veteran's credit must be submitted to the Commission along with the application for examination and must, at that time, be accompanied by proof of military service as described above. Veteran's credit requested after the final date for test application will not be honored.

Applications eligible for veterans credit on original examination shall receive a priority in ranking over non-veterans who obtain an identical grade.

### **8.03 Promotional Seniority Credit**

- A. In promotional examinations, additional credit for seniority in the civil service of the City, the State, or any other political subdivision shall be added to the examination grade. No credit for seniority shall be added to an examination grade unless the applicant achieves at least the minimum passing score on the examination, absent any extra credit.

Notwithstanding the previous paragraph, no person who has resigned a classified position in a police department or a fire department will receive seniority credit for service prior to such resignation.

Furthermore, any person who has either been convicted of a felony within the meaning of R.C. 124.34 or removed from his position in connection with such a conviction or the underlying facts, is barred from receiving seniority credit, to the extent the Commission may disallow credit under that section. This paragraph is not meant to imply any other limitations on the Commission's authority regarding such person.

- B. Credit for seniority shall equal, One point shall be added for each of the First four (4) years of service and six-tenths of a point shall be added for each year for the next ten (10) years (up to a maximum of 10.0 points) of service. Half of the credit above shall be given for a half year of service.
- C. In computing the credit for seniority in the Division of Fire, one-half (.5) of the credit set out in subsection (B) above shall be given for one-half (.5) year of service. Credit for service shall be based only on service with the same appointing authority.
- D. An approved leave of absence is not a separation of service; therefore, seniority service credit for purposes of promotion will continue to accrue during such leave.

### **8.04 Addition of Credits**

- A. Applicants for original appointment shall be entitled to only such credit as is set forth in 8.02 (relating to veteran's credit).

- B. Applicants for promotional appointments shall be entitled to only such credit as is set forth in 8.03 (relating to seniority credit).
- C. In scoring all original and promotional examinations, no additional credit shall be given to any applicant, unless such applicant has achieved the minimum passing grade without the addition of any additional credit.

#### **8.05 Inspection and Grading of Examination Papers**

- A. After any promotional competitive examination has been held, and prior to the grading of such examination papers, any participant in said examination shall have a period of five business days, exclusive of Saturdays, Sundays, and holidays, in which to inspect the questions, the scoring keys, or answers to the examination, and to file any protest he may deem advisable. Such protests must be in writing, contain the authority relied upon, and shall remain anonymous to the Commission. All protests with respect to rating keys or answers shall be determined by the Commission within a period of not more than five business days following the date on which the final protest is received, exclusive of Saturdays, Sundays, and holidays; and the Commissioners decision shall be final. If the Commission finds an error in the scoring key or answers, it shall publish a revised scoring key within five business days of the date of its determination of such error or errors. The revised scoring key or answer shall then be available to participants for a period of five business days, exclusive of Saturdays, Sundays, and holidays, subsequent to the publication of the revised scoring key.
- B. A written report of the grades of the applicants shall be submitted by the testing entity to the Civil Service Commission, and the results posted at the office of the Mayor and the Civil Service Commission.
- C. After notice of a score has been received, each participant shall have the right to inspect his own examination papers together with the rating key. Inspection must occur within five days following the posting of the grades. The Commission shall consider all protests, make changes as warranted, and then establish the eligible list. No grades shall be changed after the posting of any eligible list. Inspection shall not be permitted of standardized tests prepared by experts outside of the City's service.
- D. All papers, except actual examinations to be given, medical records, EEO information, or recommendations of former employers submitted by participants in any examination shall be open to public inspection during office hours upon application to the Commission, provided such application



is made during the period in which persons whose names appear on the eligible list resulting from such examination are eligible for appointment.

- E. Any person who inspects the questions, scoring keys, or answers during the periods set forth in paragraphs (A) or (C), or pursuant to paragraph (D) of this section, shall be thereafter prohibited from taking the same examination for such a position in the classified service; provided, however, that the Commission may waive this prohibition if it finds that the examination and scoring key or answers are not similar to those of the examination that had been examined.

## **RULE NINE**

### **ELIGIBLE LISTS**

#### **9.01 Preparation of Eligible Lists**

The Commission shall prepare and keep open to public inspection, from the results of each examination, an eligible list of those persons whose general average score in the examination is not less than the minimum passing grade, and who are otherwise eligible for appointment. Such persons shall be ranked upon the eligible list as candidates in the order of their relative excellence as determined by the examination without reference to priority of the time of examination. Whenever it becomes necessary to hold a subsequent examination in order to obtain additional eligible candidates, the Commission may consolidate existing lists for the same class by rearranging the names of those eligible therein according to their score. All those persons whose names appear on an existing list, which is to be merged with a new list, shall be have an opportunity to compete in the second examination.

#### **9.02 Term of Eligible List**

The term of eligibility may be fixed by the Commission for at least one, but not more than two (2) years. When an eligible list is reduced to ten names or less, a new list may be prepared. The Commission may consolidate two or more lists of the smne kind by the rearranging of eligibles named therein, according to their grades.

#### **9.03 Ties - Original Appointment Eligible Lists**

In the event that two or more applicants receive the same score in an original appointment examination, priority in the time of filing the application with the Commission shall determine the order in which their names shall be placed on the eligible list; provided that applicants eligible for veterans preference under section 124.23 of the Revised Code shall receive priority in rank on the eligible list over non-veterans on the list with a rating equal to that of the veterans. Ties among veterans shall be decided by priority of the filing of the application.

#### **9.04 Ties - Promotional Eligible Lists**

- In the event that two or more applicants receive the same mark on a promotional examination, seniority shall determine the order in which names shall be placed on the eligible list.

#### **9.05 Disqualification from Eligible List**

A. The name of any person appearing on an eligible list who:

1. fails to report, or arrange to report, or arrange within a reasonable time for an interview with an appointing authority; or
2. fails to respond to a notice from the Civil Service Commission; or
3. provides incorrect or incomplete information to the Civil Service Commission; or
4. fails to respond to request for information during background checks; or
5. declines an appointment for reasons other than illness, military service, conflict with schooling, or other instances not satisfactory to the Civil Service Commission; or
6. cannot be located by the postal authorities shall not thereafter be certified to any appointing authority as eligible for appointment. The potentially disqualified person shall be notified concerning the application of this section unless his whereabouts are unknown. The disqualified candidate's name may again be certified from the eligible list only where a thoroughly satisfactory explanation of the circumstances is made to the Commission. In the event of the refusal of an appointment by an eligible candidate, the appointing authority shall so notify the Commission.

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

- C. 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 from appointment because of false statements made on his application, inability to perform the job duties, lack of a necessary license, lack of insurability, or for other comparable reasons; such person shall be notified and given an opportunity to be heard. If such person shall fail to appear for hearing, or upon being heard, fail to satisfy the Commission, his name shall be removed from such eligible list.

#### **9.06 Removal from an Eligible List**

Names may be removed from an eligible list by the Civil Service Commission in accordance with these rules, for the following reasons:

1. the written request of the eligible;
2. the expiration or revocation of the list;
3. failure of the person listed on the eligible list to - fulfill all of the requirements and qualifications set out by or under these rules;
4. the refusal or neglect of the eligible within six calendar days after notice of appointment to accept appointment upon certification, unless a waiver of such appointment is sought by the eligible and approved by the Civil Service Commission;
5. the failure of the appointing authority to select the eligible upon more than three certifications; and
6. the death of the eligible.

#### **9.07 Duty of Eligibles**

Each person on an eligible list shall file with the Commission written notice of any change of address, and failure to do so\_ may be considered sufficient reason for not certifying his name to the appointing authorities for future appointment.

**9.08 Revocation of 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 reason of errors, fraud, or obviously inappropriate standards prescribed in connection with any examination. All competitors in the first examination shall be notified and shall be eligible to compete in the rescheduled examination without filing a separate application or 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 an entry in the minutes of the Commission of the reasons for such alteration or revocation.

**9.09 Separate Lists for Police and Fire**

Notwithstanding 9.01, separate eligible lists shall be maintained for original and promotional appointments in Police and Fire Departments. No person may be transferred from one list to the other, and appointments and promotions shall be made only from the eligible lists maintained by each department.

## **RULE TEN APPOINTMENTS AND PROMOTION**

### **10.01 Appointments in General**

Appointments to all positions in the classified service, other than those that are filled by exempt promotion, transfer, or reduction, as provided in Sections 124.01 to 124.64 of the Revised Code, and the rules and regulations of the Commission prescribed under such sections, shall be made only from those persons whose names are certified to the appointing authority.

### **10.02 Appointment Procedure/Number of Names Certified**

- A. The appointing authority of a department in which a position in the classified service is to be filled shall notify the Commission of the classification title and the number of positions to be filled. Upon the receipt of this, the Commission shall, except as otherwise provided in ORC 124.27, 124.30 (relating to provisional appointments); and 124.31 (relating to promotions) of the Revised Code; and these rules, certify to the appointing authority the names and addresses of the ten candidates standing highest on the eligible list for the class or grade to which the position belongs; provided that the Commission may certify less than ten names if ten names are not available. When less than six names are certified to an appointing authority, appointment from that list shall not be mandatory.
- B. The appointing authority, having notified the Commission of the position to be filled, and having received such list may then appoint. Except as provided in 10.08 with respect to promotion within the Police and Fire Departments, the appointing authority shall fill such position by appointment of one of the ten persons certified to him. If more than one position is to be filled, the 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 first ten candidates on the list who is willing to accept consideration for the position.
- C. If an eligible list becomes exhausted and until a new list can be created; or, when no eligible list for such position exists, names may be certified from eligible lists most appropriate for the group or class in which the position to be filled is classified.

### **10.03 Removal from Eligible List**

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.

### **10.04 Veterans Preference on Original Appointments**

A veteran of military service, who has been honorably discharged or separated under honorable conditions therefrom, and who is a resident of Ohio, and whose name is on the eligible list for a position, shall be entitled to preference in an original appointment to such competitive position over any other person eligible for such appointment and standing on the list thereof with a rating equal to that of each such person. (See Rule 8.02.)

### **10.05 Probationary Periods**

- A. All original appointments, including provisional appointments made pursuant to 124.30 of the Revised Code, shall be for a probationary period of not less than 60 days and not more than one year. All promotional appointments shall be probationary for a period of six months.
- B. No promotion shall be final until the appointee has satisfactorily served his probationary period.
- C. Service as a provisional employee in the same or similar class shall be included in the probationary period.
- D. At the end of the probationary period, the appointing authority shall transmit to the Civil Service Commission, or the Clerk of the Civil Service Commission, indication of the appointee's successful completion of the probationary period.

### **10.06 Removal or Reduction During Probation**

If the service of a probationary employee is unsatisfactory, he may be removed or returned to his prior position without right of appeal at any time during the probationary period. In the case of the removal of a probationary appointee, the appointing authority shall immediately notify the Commission when the

appointment is to be terminated. Such notification shall be in writing and state the reasons therefore.

#### **10.07 Provisional Service**

Any employee in the classified service of the City of Fostoria who is appointed provisionally to fill a vacancy and who remains in provisional status in the same classification series for a period of two years of continuous service, during which period no competitive examination is held, shall become a permanent appointee in the classified service at the conclusion of such two year period.

#### **10.08 Promotional Appointments: Police and Fire**

With the exception of the Chief in the Division of Police, and the Chief in the Division of Fire, in the case of a promotional appointment to be made in the Division of Police or Fire, the Commission shall certify to the appointing authority the name of the person standing highest on the list. Upon such certification, the appointing authority shall appoint the person certified within 30 days of certification; ten days in the case of an appointment within the Division of Fire. If there is no eligible list for the rank in which the available vacancy occurred, the Commission, within 60 days of such vacancy occurring shall hold a competitive promotional examination. After such examination has been held in the Division of Fire, an eligible list shall be established within 20 days of the final date of the revised rating key or answer inspection date and the Civil Service Commission shall certify the person receiving the highest grade.

#### **10.09 Promotional Restrictions: Police and Fire**

- A. With the exception of Chief of the Division of Police and Chief in the Division of Fire, vacancies above the rank of regular firefighter in the Division of Fire, and above the rank of patrol officer in the Division of Police, shall be filled by a competitive examination for promotion from among persons holding the next immediate lower rank. No such position shall be filled by original appointment.
- B. When a vacancy occurs in the promoted rank immediately above the rank of regular fireman, no person shall be eligible to take the examination unless he has served 24 months in the rank of regular fireman, provided in those cases where there are less than two persons in the rank of regular



Fireman who have served 24 months therein and are willing to take the examination, the 24 month service requirement does not apply.

When a vacancy occurs in a promoted rank, other than the promoted rank immediately above the rank of regular fireman, no person shall be eligible to take the examination unless he has served 12 month in the rank from which the promotion is to be made, provided in those cases where there are less than two persons in such next lower rank who have served 12 months therein and are willing to take the examination the 12 months service requirement shall not apply.

- C. No person in the Division of Police shall be promoted to a position in higher rank who has not served at least 60 months in the next lower rank.
- D. If there are fewer than two eligible people willing to take the promotional test, the time-in-rank requirement may be waived by the Civil Service Commission.
- E. If, even by waiving the time-in-rank requirement for nonprobationary employees, there are not two eligible people willing to take the promotional examination, the Civil Service Commission shall open the test to probationary employees in the lower rank.
- F. If, even by opening the test to probationary employees, there are not two eligible people willing to take the promotional examination, the Civil Service Commission shall allow the nonprobationary persons in the then next lower rank to compete with those persons in the rank lower than the position to be filled.
- G. The above process shall be repeated in a downward progression until such time as there are at least two candidates to take the competitive examination.
- H. If, after exhausting all ranks, two eligible test takers cannot be located, then a provisional appointment can be made.

#### **10.10 Temporary or Exceptional Appointment**

Positions in the classified service may be filled without competition as follows:

- A. Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the Commission is unable to certify to the appointing authority, upon request by the latter, a list of persons eligible for appointment to such position after a competitive examination, the appointing authority may nominate a person to the Commission for noncompetitive examination. If such nominee

is certified by the Commission as qualified after such noncompetitive examination, that person may be appointed provisionally to fill such vacancy until a selection and appointment can be made . after competitive examination. Such provisional appointment shall continue in force only until a regular appointment can be made from eligible lists prepared by the Commission. Such eligible list shall be prepared within six months, provided that an examination for the position must be held within said six month period from the date of such provisional appointment.

- B. In case of an emergency, an appointment may be made without regard to these rules for a period not exceeding 30 days, but in no case shall successive appointments be made.
- C. In case of a vacancy in a position in the classified service where peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable, and that the position can best be filled by a selection of some designated person of high and recognized attainments in such qualities, the Commission may suspend the provisions of section 124.01 to 124.06 of the Revised Code and these rules requiring competition in such case, but no such suspension shall be general in its application. All such cases of suspension shall be reported in the annual report of the Commission with the reasons for this suspension of the rules.
- D. Where the services to be rendered by an appointee are for a temporary period, not to exceed six months, and the need for such service is important and urgent, the appointing authority may select for such temporary service any person, including any person on the proper list of those eligible for permanent appointment. Successive temporary appointments to the same position shall not be made under this division. The acceptance or refusal by an eligible of a temporary appointment shall not affect the person's standing on the register for permanent employment; nor shall the period of temporary service be counted as a part of the probationary service in case of subsequent appointment to a permanent position (sections 124.27, 124.27.1, 124.30 of the Revised Code). All such temporary appointments shall be promptly reported to the Civil Service Commission.

- E. Interim or temporary appointments made necessary by reason of sickness, disability, or other approved leave of absence of regular officers or employees shall continue only during such period of sickness, disability, or other approved leave of absence, subject to rules to be provided for by the director.

Persons who receive interim, temporary, or intermittent appointments shall serve at the pleasure of their appointing authority. Interim appointments shall be made only to fill a vacancy that results from an employee's temporary absence, but shall not be made to fill a vacancy that results because an employee receives an interim appointment.

**RULE ELEVEN**  
**TENURE, REDUCTION, SUSPENSION, REMOVAL, AND**  
**DEMOTION**

**11.01 Tenure of Office**

- A. The tenure of every officer or employee in the classified service of the City of Fostoria, Ohio, holding a position under Chapter 124 of the Revised Code, shall be during good behavior and efficient service. Except in case of layoff or abolishment or as otherwise provided by the Ohio Revised Code, no such officer or employee shall be reduced in pay or position, suspended, or removed, except as provided in section 124.34 of the Revised Code for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of such sections of the Revised Code or the Rules of the Commission, or any other failure of good behavior, or any other acts of misfeasance, malfeasance, or nonfeasance in office, conviction of a felony, or any violation of the rules and regulations of the Fostoria Police or Fire Division.
- B. A finding of the Ohio Ethics Commission, based upon a preponderance of the evidence that the facts alleged in a complaint under section 102.06 of the Revised Code constitute a violation of Chapter 102, Section 2921.42 or Section 2921.43 of the Revised Code may constitute grounds for dismissal.
- C. Failure to file a statement or falsely filing a statement required by section 102.02 of the Revised Code may also constitute grounds for dismissal.

**11.02 Conviction of a Felony**

- A. Conviction of a felony is a separate basis for reducing in pay or position, suspending, or removing an officer or employee, even if the officer or employee has already been reduced in pay or position, suspended, or removed for the same conduct that is the basis of the felony. An officer or employee may not appeal to the State Personnel Board of Review or the Commission any disciplinary action taken by an appointing authority as a result of the officer's or employee's conviction of a felony. If an officer or employee removed under this section is reinstated as a result of an appeal of the removal, any conviction of a felony that occurs during the pendency of

the appeal is a basis for further disciplinary action under this section upon the officer's or employee's reinstatement.

- B. A person convicted of a felony immediately forfeits the person's status as a classified employee in any public employment on and after the date of conviction for the felony. If an officer or employee is removed under this section as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the officer or employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmance of the removal, unless the conviction for the felony is subsequently reversed or annulled.
- C. Any person removed for conviction of a felony is entitled to a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, such person shall qualify for and accrue these forms of leave in the manner specified by law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.
- D. As used in this division, "felony" means any of the following:
  - I. a felony that is an offense of violence as defined in section 2901.01 of the Revised Code;
  - 2. a felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code;
  - 3. a felony under the laws of this or any other state or the United States that is a crime of moral turpitude;
  - 4. a felony involving dishonesty, fraud, or theft;
  - 5. a felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

**11.03 Membership in Organization Advocating Overthrow of Government.**  
**Cause for Removal**

- A. It shall be sufficient cause for the removal of any employee when such employee advocates or willfully retains membership in an organization which advocates overthrow of the government of the United States or of the state, by force, violence, or other unlawful means.

- C. The procedure for the removal of all employees under the provisions of this rule shall be the same as is provided in section 124.34 of the Revised Code and the Rules, except that the decision of the Commission shall be subject to appeal to the court of common pleas of Seneca County. Such appeal shall be taken within ten days from the finding of the Commission.

#### **11.04 Procedure in General**

- A. In case of a reduction, suspension of more than three working days, fine in excess of three days' pay, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall serve the employee with a copy of the order of reduction, fine, suspension, or removal, which order shall state the reasons for the action. The order shall be filed with the Commission.

- Within ten days following the date on which the order is served the employee, except as otherwise provided in this section, may file an appeal of the order in writing with the State Personnel Board of Review or the Commission. For purposes of this section, the date on which an order is served is the date of hand delivery of the order or the date of delivery of the order by certified United States mail, whichever occurs first. If such an appeal is filed; the Commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the 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.
- C.

In cases of removal or reduction in pay for disciplinary reasons, either the appointing authority or the officer or employee may appeal from the decision of the State Personnel Board of Review or the commission to the court of common pleas of the county in which the employee resides in accordance with the procedure provided by section 119.12 of the Revised Code.

#### **11.05 Procedure: Police and Fire**

A. In the case of the suspension for any period of time, or a fine, demotion, or removal of the Chief of the Division of Police or the Chief of the Division of Fire or any other member of the Division of Police or the Division of Fire, the authority shall furnish such chief or member of a department with a copy of the order of suspension, fine, demotion, or removal, which order shall state the reasons for the action. The order shall be filed with Commission.

Within ten days following the filing of the order, such Chief or member of a department may file an appeal, in writing, with the Commission. If such an appeal is filed, the Commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within ten days from and after its filing with the Commission, and it may affirm, disaffirm, or modify the judgment of the appointing authority. An appeal on questions of law and fact may be had from the decision of the Commission to the court of common pleas of Seneca County, Ohio. Such appeal shall be taken within 30 days from the finding of the Commission.

#### **11.06 Disciplinary Suspension**

An employee may be suspended for a period of not to exceed three working days for disciplinary purposes without a right of appeal to the Civil Service Commission.

#### **11.07 Absence Without Leave**

Absence from duty without leave for any period of time; or the failure to report for duty after leave has expired, shall be considered "neglect of duty" and a cause for removal.

#### **11.08 Procedure for Removal, Suspension, or Reduction**

A suspension, removal, or demotion pursuant to ORC 124.34 of an employee by an appointing authority shall not become effective until such appointing authority has first:

A. held a predisciplinary meeting at which the employee is apprised of the alleged transgressions and of the proposed disciplinary action;

- B. served such employee a written order of discipline which contains one or more statutory reason(s) for the grounds for discipline with such specifications of facts as shall fairly allow the employee to defend; and
- C. filed a copy of such order of removal with the Commission within the time allowed.



## **RULE TWELVE HEARING PROCEDURE**

### **12.01 Time of Hearing; Notifications**

Upon receipt from an employee or officer in the classified service of the City or the City School District of a timely appeal from an order of removal, reduction in pay or position, or suspension for more than three working days, the Commission shall set a time and place to hear such appeal and shall notify the appropriate appointing authority, as well as the employee and his attorney, if known, of the time and place of the hearing. Such notice must be in writing and mailed to the last known post office address of each party no less than ten calendar days prior to the hearing date; however, this time limit may be waived by the Commission at the employee's request.

### **12.02 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 provided herein provided.

### **12.03 Hearing Procedure**

Hearings before the Commission may be public except when the nature of the charge may be offensive to public morality and decency. In such cases, the Commission may order the hearings closed to the general public. In the hearing of such appeals, the order of procedure shall be as follows:

- A. The appointing authority taking action affecting the employee shall present his evidence in support of the charges and specifications.
- B. The employee affected shall then produce such evidence as he may wish to present to refute such charges.
- C. The appointing authority may offer evidence in rebuttal. The Commission may, in its discretion, hear final arguments.

- D. Either party may call the other, or agents, officers, or employees of the same as a cross-examination.

#### **12.04 Rules of Evidence: Representation by Counsel**

The Rules of Evidence prevailing in civil actions in t\_he Ohio courts of general jurisdiction are to be used as evidentiary guidelines in hearings before the Civil Service Commission. The Commission may permit the introduction of evidence otherwise excludable under such rules where a foundation, establishing the reliability and credibility of the evidence, its relevance and materiality, and its necessity, has been established. The appellee and appellant may be represented by counsel or other representative. The Civil Service Commission may be represented by independent legal counsel and the cost of such representation will be paid by the City.

#### **12.05 Burden of Proof**

The appointing authority shall prove, by a preponderance of the evidence, the factual allegations contained in the disciplinary order. Failure to prove each of the allegations contained in the order does not require disaffirmance or annulment of the appointing authority's order by the Commission.

#### **12.06 Hearsay**

The Commission may permit the introduction of evidence otherwise excludable as hearsay provided there is established some foundation as to its reliability and its necessity.

#### **12.07 Discovery**

The Commission may allow either party to conduct discovery upon notice to the Commission.

#### **12.08 Subpoenas**

Either party may request t)lat a subpoena be issued by the Commission. Such requests shall be submitted no later than seven days prior to the hearing. Such request must be accompanied by a completed subpoena form. It is the

responsibility of the requesting party to serve the subpoena. The Commission may call witnesses other than those requested by the parties.

#### **12.09 Witnesses**

All witnesses must testify under oath or affirmation.

#### **12.10 Motions**

- A. All motions shall state, with particularity, both relief sought by the moving party and the basis for granting such relief.
  - 1. All motions, together with supporting documentation, if any, shall be served on the opposing party.
  - 2. Motions to dismiss an appeal shall be supported by affidavits, made on personal knowledge, setting forth facts as would be admissible in evidence. Affidavits shall show affirmatively that the affiant is competent to testify to the matter stated therein. Sworn or certified copies of all papers referred to in an affidavit shall be attached thereto. When a motion is made and supported as provided in this rule, an adverse party may not rest upon mere allegations or denials.  
An adverse party's response, by affidavit or otherwise, shall set forth specific facts showing there is a genuine issue in dispute.
- B. 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.

#### **12.11 Record of Hearings**

The Commission may record hearings either by the use of a stenographer, magnetic tape, or other recording technology.

#### **12.12 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.

### **12.13 Trial Board/Hearing Officer**

The Commission may appoint a trial board or hearing officer to hear an appeal as provided in Rule 11.02. 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 to the Commission in each appeal considered by the hearing officer for the Commission.
- 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. Written objections to reports and recommendations shall be filed within ten calendar days after receipt of the report and recommendation(s). Written replies to objections shall be filed within ten 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 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 each 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 not less than 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 presidential value.

Copies of final orders of the Commission shall be sent by certified mail to the affected employee and by regular mail to the other parties 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 THIRTEEN LAYOFFS AND TRANSFERS**

### **13.01 Layoffs or Reductions in General**

When any permanent office or position in the classified service, except in the Police and Fire Departments, is abolished or made unnecessary, or the person holding such office or position is laid off, the procedure outlined in Sections 124.321 through 124.328 of the Revised Code shall be followed.

### **13.02 Retention Points**

- A. An employee's total retention points shall be the sum of the base points plus the retention points assigned for continuous service.
- B. The appointing authority shall compute the total retention points for each employee in the classifications affected by a layoff or position abolishment, including the classifications in which displacement may occur.
- C. The appointing authority shall submit the required information to the Civil Service Commission for verification. Notification by appointing authorities to affected employees shall not occur prior to the Commission's verification of retention points.
- D. Employees shall be assigned a base of 100 retention points. Computation of retention points for continuous full-time service shall be made by crediting each employee with one retention point for each biweekly pay period of continuous service. Retention points for continuous service for other than full-time service shall be calculated on the basis of one-half (.5) point for each biweekly pay period of continuous service.

### **13.03 Layoffs or Reductions: Police and Fire**

Layoffs or reductions in the Police or Fire Departments for causes other than those outlined in section 124.34 of the Revised Code shall be made in accordance with the provisions of section 124.37 of the Revised Code.

#### **13.04 Temporary Transfers**

- A. An employee holding a position in the classified civil service may be temporarily transferred from his original position to a similar position, for a period not to exceed 30 days, or for a longer period not to exceed 90 days if agreed to by the employer and the employee.
- B. No employee shall be temporarily transferred more than once during any six month period without the approval of the Civil Service Commission.
- C. If the Civil Service Commission approves a second temporary transfer within any six month period, and the employee objects to the transfer because the temporary transfer is not necessary for the efficient operation of the office, the employee may appeal the temporary transfer to the Civil Service Commission. If the Civil Service Commission finds that the appeal of the employee is well taken, the Commission shall not approve the temporary transfer. If the Civil Service Commission finds that the appeal is not well taken, the Commission shall approve the temporary transfer.

#### **13.05 Permanent Transfers**

- A. Subject to the other provisions of these rules, an appointing authority may, with the approval of the Civil Service Commission, permanently transfer an employee in the classified service from his position to a similar position in another office, department, or division of the same appointing authority.
- B. For the purposes of this rule, a "permanent transfer" is any transfer in excess of 30 days unless the employee and the employer have agreed to a temporary transfer of a longer period, not to exceed 90 days.
- C. The appointing authority requesting the permanent transfer shall notify the employee and the Civil Service Commission in writing of the request to transfer.
- D. If the Civil Service Commission determines that the transfer is not necessary for the efficient operation of the office, department, or division, the Commission shall not approve the transfer and shall notify the appointing authority and the employee in writing that the transfer is not approved. If the Civil Service Commission determines that the transfer is necessary for the efficient operation of the office, department, or division, the Civil Service Commission shall notify the appointing authority and the employee involved in writing that the transfer is approved.

## **RULE FOURTEEN REINSTATEMENTS AND LEAVES OF ABSENCE**

### **14.01 Leaves of Absence**

An appointing authority may, with the consent of the Commission, grant a leave of absence to an employee in the classified service for a period not to exceed six months. Upon the expiration of such leave of absence, such officer or employee shall be reinstated. However, if the officer or employee is a provisional appointee under section 124.30 of the Revised Code, the leave of absence, 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 the appointing authority shall be referred to the Commission promptly for approval, in order that the Civil Service data of such absentees may be protected:

Seniority credit shall accumulate only if the leave of absence is related to law enforcement education or service.

### **14.02 Reinstatements in General**

Any person holding an office or position under the classified service who has been separated from the service without delinquency or misconduct on his part, and other than for disability, may, upon recommendation of the appointing authority and with the consent of the Commission, be reinstated within one year from the date of such separation to a vacancy in the same or similar office or position in the same department within 30 days after making written application for reinstatement. Such reinstatement may be predicated upon the person passing a physical examination made by a licensed physician and showing the person can perform the essential functions of the job. Any person reinstated pursuant to the authority of this paragraph shall not receive credit for seniority earned prior to a resignation or reinstatement. Police and firefighters who resign shall not be entitled to reinstatement to a position above the rank of police officer or fire fighter, regardless of the position/rank the person may have held at the time of resignation.



#### **14.03 Reinstatement/Disability Retirement: Police and Fire**

- A. Any person holding an office or position under the classified service who is separated therefrom due to injury or physical disability and has been on an approved disability retirement under the Public Employee Retirement System (PERS) or the Police and Fireman Disability Pension Fund (PFDPF), and such retirement board certifies to the employer that the employee is physically and mentally capable of performing the duties of the same or similar position from which the employee was separated, the employee shall be restored to the same or similar position and salary as was held by the employee at the time of separation.
  - 1. One who was separated due to injury or physical disability incurred the performance of duty may be reinstated immediately.
  - 2. One who was separated due to injury or physical disability incurred other than in the performance of duty may be reinstated upon:
    - a. filing a written application with the Chief of the Division for reinstatement to the office or position held at the time of separation; and
    - b. passing a physical examination conducted by a licensed physician designated by the Police and Fireman's Disability Pension Fund which certifies the person is able to perform the essential functions of the office or position within two weeks after making application for reinstatement;
    - c. such application for reinstatement must be filed within three years from the date of separation and the applicant shall not have attained service eligibility retirement.
- B. Any person who holds an office or position under the classified service in the Police or Fire Department, who resigns therefrom, may be reinstated to the rank of policeman or fireman upon filing a written application for reinstatement with the Commission within one year from the date of resignation. A copy of the application shall be filed with the Chief of such department and the person shall pass a physical examination, conducted by a licensed physician that certifies the person is physically fit to perform the essential functions of the office of fire fighter or police officer (whichever is applicable). Any person reinstated pursuant to the authority of this paragraph (B) shall not receive credit for seniority earned prior to resignation and reinstatement and shall not be entitled to reinstatement to a position

above the rank of firefighter or police officer, regardless of the position the person may have held at the time of the resignation.

## **RULE FIFTEEN PROHIBITIONS**

### **15.01 Political Activity Prohibited**

- A. No officer or employee in the classified service of the City of Fostoria, Ohio shall engage in partisan political activity and shall not to that extent:
  - I. 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;
  - 2. 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;
  - 3. 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.
- B. This provision shall not prohibit officers or employees of the City of Fostoria, Ohio, or of the from making personal political contributions.

### **15.02 Fraud in Examinations Prohibited**

Fraud in examinations are prohibited in accordance with section 124.58 of the Revised Code. No person or officer shall:

- A. willfully or corruptly by himself or in cooperation with one or more persons defeat, deceive, or obstruct any person in respect to their right of examination, appointment, or employment arising under the Civil Service laws or any rules and regulations prescribed pursuant thereto; or
- B. willfully or conuptly, 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 Civil Service Law, or aid in so doing; or

- C. willfully or corruptly make any false representations concerning the results of such examinations 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 personate any person or permit or aid in any manner any other person to personate him in connection with any examination, registration, or 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, or appointment or application or request to be examined, registered, or appointed; or
- G. make known, or assist in making known to any applicant for examination, any questions 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 a favor from any member of the Commission, appointing officer, or any person in 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, pamphlets, or books of any kind to assist him in answering the questions, shall have his examination papers taken up and filed with a "0" marking, when the circumstances justify such action.

### **15.03 Payment for Appointment or Promotion Prohibited**

No applicant for appointment or promotion in the classified civil service shall, directly or indirectly, pay or promise to pay any money or other valuable thing, nor shall he ask or receive any recommendation or assistance from any person, upon the consideration of any political service to be rendered, for or on account of his appointment or promotion, or proposed appointment or promotion.

#### **15.04 Abuse of Official Power for Political Reasons Prohibited**

No officer or employee of the City of Fostoria, Ohio, shall appoint, promote, reduce, suspend, lay off, discharge, or in any manner change the official rank or compensation of any officer or employee or promise or threaten to do so, or harass, or discipline, or coerce any such officer or employee, for giving, withholding, or refusing to support any party.

#### **15.05 Abuse of Political Influence**

No person who holds any public office, or who has been nominated for, or who seeks nomination or appointment to any public office, shall corruptly use or promise to use, either directly or indirectly, any official authority or influence in order to secure or to aid any person in securing for himself, or for another any office or employment in the classified service of the City of Fostoria, Ohio, or of the Fostoria City School District, or any promotion or increase in salary therein, as a reward for political influence or service. No person, by means of threats or coercion, shall induce or seek to induce anyone to resign his position or to waive his right to certification, appointment, or promotion.

#### **15.06 False Statements**

Fraudulent conduct or false statements by an applicant or by others with his connivance, in any application or examination, shall be deemed cause for exclusion of said applicant from any examination, or for removal of his name from an eligible list, or for discharge from the service after appointment from certification.

#### **15.07 Violations**

After a rule hereunder has been established and published by the Civil Service Commission, no person shall make an appointment to office or select a person for employment contrary to such rule, or willfully refuse or neglect to comply with or to conform to the sections of these rules, and, to the extent that the same are applicable, Chapter 124 of the Ohio Revised Code, or willfully violate any section of the same. If any person who is convicted of a violation described herein holds any public office or place of public employment, such position shall be rendered vacant by reason of said conviction.

#### **15.08 Prosecutions**

Prosecutions for violations under these rules and/or Chapter 124 of the Ohio Revised Code in relation to the civil service of the City of Fostoria, Ohio or by any officer or employee of the same, shall be instituted by the Civil Service Commission of the City of Fostoria, Ohio, through the legal department of the City of Fostoria Ohio, or by such Civil Service Commission through special counsel.