

# **CIVIL SERVICES**

## **RULES AND REGULATIONS**

### **CITY OF ASHLAND**

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CITY OF ASHLAND

CIVIL SERVICE RULES AND REGULATIONS

**PREAMBLE**

Pursuant to Article XV, Section 10 of the Ohio Constitution, Chapter 124 of the Ohio Revised Code, and Section 52 of the Ashland City Charter, the following Civil Service Rules and Regulations are hereby adopted. By adoption of these Rules and Regulations, the Commission knowingly repeals any and all previous Rules and Regulations of the Civil Service Commission of Ashland, Ohio.

Adopted May 9, 1979  
Ashland Civil Service Commission  
Kenneth Nordstrom, President  
Dr. Glenn Clayton, Vice Pres.  
Mollie S. Webb, Secretary

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## DEFINITIONS

As used in these Rules, the following words, phrases, terms or expressions shall have the meanings as indicated:

- 1) “Ability Test” A test of muscular strength, agility, endurance and coordination as it relates to performing essential job related tasks. An ability test may include a skills demonstration component as developed by the Director of Human Resources in conjunction with the Division Director and approved by the appointing authority.
- 2) “Assessment Center” A test designed to simulate the administrative decision making necessary to perform the work of the position for which the center was designed.
- 3) “Allocation” The assignment of a class to a pay range or an appropriate pay level.
- 4) “Applicant” A person who has formally applied for a position with the City of Ashland.
- 5) “Appointment” The act of selecting and hiring an individual to a position in the employment of the City of Ashland.
- 6) “Appointing Authority” The Mayor shall be the appointing authority for all City employees except for: 1) employees of the Director of Finance and Public Record; 2) employees of the Director of Law; and 3) any other office, Board of Commission having the power of appointment to or removal from their respective office, Board or Commission.
- 7) “Authorized Position” Positions set forth in the official table of organization which have been authorized by the Mayor and other appointing authorities.
- 8) “Certification” The act by which the Commission sends to the appointing authority names of applicants eligible for a specific position.
- 9) “City” Shall mean the City of Ashland.
- 10) “Classification” A position or group of positions sufficiently comparable in respect to duties, responsibilities and qualification requirements which can be properly designated by one title and equitably compensated within the same salary scale.
- 11) “Classified Service” All positions in the civil service not included in the unclassified service as provided in 124.11 of the Ohio Revised Code.
- 12) “Commission” The Civil Service Commission of the City of Ashland.

- 13) “Demotion” A reduction from one class to another class for which maximum rate of pay is lower.
- 14) “Dismissal” The permanent separation of an employee from City employment.
- 15) “Eligible” A person who has formally applied for a position with the City of Ashland, and has been placed on an eligible list, or who has qualified to be placed on an eligible list.
- 16) “Eligible List” A list of names established either through registration, examination, layoff or reinstatement for the purpose of filling vacancies in the classified service.
- 17) “Emergency Appointment” A temporary appointment based on urgent need made for a period not to exceed 30 days.
- 18) “Examination” A method or procedure used by the City to assess the relative capability of applicants to perform the duties and responsibilities of the position sought. An examination may be comprised of several different tests in order to fully evaluate the applicant.
- 19) “Firefighter/ Paramedic” The individual who is licensed to perform in the workplace as a firefighter and as a paramedic.
- 20) “Interim Appointment” A person who serves at the pleasure of the appointing authority to fill a vacancy that results from an employee’s temporary absence for reasons of sickness, disability, or other approved leave of absence.
- 21) “Intermittent Appointment” A person who serves at the pleasure of the appointing authority to fill a position which requires unpredictable intervals of work in hours, days and frequency.
- 22) “Interruption In Service” Any official separation in employment causing the employee to no longer be an employee of the City regardless of the brevity of the separation. (8.6)
- 23) “Layoff” Removal of an employee from city employment due to lack of work, lack of funds, or to changes in administrative organization.
- 24) “LATERAL TRANSFER” FOR POLICE ONLY, THE ENTRY LEVEL HIRING OF A OPOTA CERTIFIED PEACE OFFICER FROM AN OHIO JURISDICTION WITHOUT GOING THROUGH THE CIVIL SERVICE TESTING PROCESS.

- 245) “Part-time” A position of employment that may be continual, but involves an annual average work week of less than the regular work week established for full-time employees in the same department, division or office.
- 256) “Pay Range” A group of standard rates of pay with minimum and a maximum rate of pay.
- 267) “Psychological” A test performed by a licensed mental health professional to determine the personality characteristics of a candidate or employee and his/her fitness for duty to the position to which he/she is hired or aspires to be hired.
- 278) “Director of Human Resources” The person designated by the Mayor to manage the personnel functions of the City, and who shall also serve as administrative secretary to the Civil Service Commission
- 289) “Promotion” Advancement of an employee from one class to another class of greater responsibility for which the maximum rate of pay is higher.
- 2930) “Position” An officially designated job with a generally defined group of duties and responsibilities.
- 301) “Seasonal Employee” A temporary employee whose total employment may not exceed 40 weeks in any consecutive 52-week period.
- 342) “Specification” A written summary of the duties and responsibilities of a position, designed to illustrate, but not to limit, the day-to-day activities of the employee covered by such specification.
- 323) “Suspension” The temporary and involuntary separation of an employee from active duty for the City for disciplinary purposes. Suspensions for three days or less are not subject to appeal to the Civil Service Commission.
- 334) “Temporary Appointment” An appointment for a limited period of time fixed by the appointing authority and approved by the Director.
- 345) “Underfilling” Filling a promotional position with an existing employee who does not meet the minimum qualifications for the position, when an inadequate number of qualified applicants are available for the promotional position. Such employee is appointed and then trained to assume responsibility for the position, provided a promotional examination is passed or the employee’s qualifications are accepted by the Commission

- 35) Vacancy The actual or future opening of a classified civil service position due to the death, resignation, separation or retirement of an incumbent employee. The appointing authority is not required to fill any vacancy. When a vacancy is declared by the appointing authority and an eligible list exists, the appointing authority may appoint the future eligible from the list on a temporary basis. however, for purposes of these rules, no appointment is official until the actual resignation, separation or retirement date of an incumbent employee. the eligible employee appointed must comply with all applicable probatioary periods.
- ~~35~~ 36) “Working Day” The days during which the employee is regularly scheduled to work or the days during which the Municipal offices are open for business, generally Monday through Friday, whichever is applicable.

**RULE I. CLASSIFICATION (O.R.C. 124.40)**

**1.1 Classification Plan**

A classification plan for all employees in the classified and unclassified service shall be developed and maintained by the Director of Human Resources, with pay ranges established for each classification. The Director of Human Resources may designate new classifications, or combine, alter or abolish existing classifications.

**1.2 Job Specifications**

Job specifications shall be developed and maintained by the Director of Human Resources outlining the typical duties and responsibilities of each classification, and the necessary qualifications. The job specifications are to be descriptive only and shall not be considered comprehensive or as limiting the duties of a position or classification.

**1.3 Incumbents of Changed Classifications**

When a position is originally assigned to a classification, or a new classification is created through abolition, merger or division of classifications, the employee assigned to such classification shall then receive the title of the new classification without examination.

**1.4 Notification of Commission**

The Commission shall be notified of the creation of each classification, and shall be given a copy of each classification specification within seven (7) days of the implementation of such new classification.

**RULE II. CLASSIFIED AND UNCLASSIFIED SERVICE (O.R.C. 124.11)**

**2.1 Classified and Unclassified Positions**

The Civil Service of the City shall be divided into the classified and unclassified service, as set forth in Section 124.11 of the Ohio Revised Code.

The Director of Human Resources shall maintain a current allocation list of specific positions included in the classified and unclassified service. The Commission shall approve the specific allocation of positions to be classified or unclassified service.

**2.2 Unclassified Service**

The unclassified service shall be exempt from all examinations, and shall comprise the following positions:

- a) All elected officers elected by popular vote, including the Mayor, members of Council, Director of Law, and the Director of Finance and Public Record.

- b) All heads of departments appointed by the Mayor, Director of Law, or Director of Finance and Public Record.
- c) The assistants to the elected officers and to the division heads, authorized to act in place of their principals or holding a fiduciary relation to their principals. O.R.C. 124.11 (a) (28). H.B. 194.
- d) Members of boards and commissions of the City.
- e) The Clerk of City Council and other employees of City Council.
- f) Four (4) clerical and administrative support employees for each elective officer and each of the principal appointive executive officers. O.R.C. 124.11 (a) (8)
- g) All employees of the Ashland Municipal Court.
- h) Assistants to the Director of Law.
- i) All presidents, business managers, administrative officers, superintendents, assistant deans, instructors, teachers and such employees as are engaged in educational or research duties connected with any bona fide high school, college, technical school or similar educational or training facility.
- j) Such unskilled labor positions for which it is impracticable to put in the competitive classified service, and as set forth in Rule 6.8.
- k) Student employees of the City or the City Board of Education.
- l) Such other positions as the Commission may find it impracticable to include within the classified service. O.R.C. 124.11 (a) (12)

### **2.3 Change from Classified to Unclassified Service**

Elected Officers and Appointed Executive Officers may each designate four (4) clerical and/or administrative support positions as unclassified pursuant to O.R.C. 124.11 (A) (8)

### **2.4 Classified Service**

The classified service shall comprise all persons employed by the City, City health district, and the City school district, not specifically in the unclassified service. The classified service is divided into the “Competitive Class” and the “Unskilled Labor Class”.

The Competitive Class includes all positions for which it is practicable to determine merit and fitness of applicants by competitive examination. The Unskilled Labor Class includes unskilled laborers who are appointed from a list of applicants registered with the Director of Human Resources as provided in Rule 6.8.

**RULE III. APPLICATIONS (O.R.C. 125.24)**

**3.1 Filing of Applications**

Application for all positions in the classified service shall be made to the Director of Human Resources upon forms provided by the Director of Human Resources. The application form must be signed by the applicant. An application must be completed for each posted vacancy. Questions on the application form shall not inquire of racial or ethnic origin, age, family status nor to religious or political affiliation. The Director of Human Resources may require, in connection with such application, a reference or recommendation from persons having knowledge of the applicant.

**3.2 Citizenship and Age Requirements**

All applicants must be citizens of the United States, or have legally declared their intention of becoming a United States citizen.

All applicants for permanent full-time positions in the classified service must be at least eighteen (18) years old, except for applicants to the Police and Fire Divisions (O.R.C. 124.42). For the purposes of this Article, the maximum age is before the 41<sup>st</sup> birthday.

Applicants for Police Officer must have attained the age of twenty-one (21) on or before the date of appointment, and shall not be over the age of thirty-five (35) on the date of appointment with the following exceptions. If an applicant has been continuously employed and in good standing with another public law enforcement agency within the prior two years, he or she may receive up to five years of experience credit for that service on a year for year basis. This credit will be added to the maximum age allowing the applicant to test for and be appointed up to and including the age of 40. For the purposes of this experience credit, the maximum age is before the 41<sup>st</sup> birthday.

Applicants for original appointment as Firefighter/Paramedic must have attained the age of twenty-one (21) on or before the date of appointment and shall not be over the age of thirty-five (35) on the date of appointment with the following exceptions. If an applicant has been continuously employed and in good standing with another public fire division within the prior two years, he or she may receive up to five years of experience credit for that service on a year for year basis. This credit will be added to the maximum age allowing the applicant to test for and be appointed up to and including the age of 40. For the purposes of this experience credit, the maximum age is before the 41<sup>st</sup> birthday.

**3.3 Minimum Qualifications**

Prior to the announcement of a vacancy in the classified service, the Director of Human Resources shall prepare in writing the minimum qualifications required for a vacant position. The minimum qualifications shall make reference to the following when required for a position: education and experience, licenses and certificates, when required, age, physical condition, psychological testing, or any other unique aspects of the position. All required qualifications must be reasonably related to the duties required to be performed in the position, and shall not be used to unlawfully discriminate. Applicants must meet the minimum requirements for a position

as stated in the announcement, except when underfilling a promotional position as provided in Rule 8.3.

### **3.3 (a) Qualifications for Police Division (O.R.C. 124.41)**

An applicant for the position of Police Officer must give evidence of the following qualifications:

- Shall have attained the age of twenty-one (21) on or before the date of appointment.
- Shall not be over the age of thirty-five (35) on the date of appointment. Where the candidate has been continuously employed and in good standing with another public law enforcement agency within the prior two years, he or she may receive up to five years of experience credit for that service on a year of year basis. This credit will be added to the maximum age allowing the candidate to test for and be appointed up to and including the age of 40. For the purposes of this experience credit, the maximum age is before the 41<sup>st</sup> birthday.
- Must currently possess a valid peace officer certification through the Ohio Peace Officers Training Council (OPOTC); or must be eligible to attain such certification through refresher training; or must be currently attending and in good standing at an OPOTC-certified academy, such candidate must have achieved a valid peace officer certification by the date of appointment.
- Shall have excellent physical condition and be able to pass ability testing
- Shall be able to meet the health requirements necessary to pass a Fitness For Duty examination performed by the City's industrial medicine physician group. Professional fees for the required medical examination shall be paid by the City.
- Shall have vision correctable to 20/20 in each eye (O.R.C. 124.14 via O.R.C. 124.40)

### **3.3 (b) Qualifications for Fire Division**

An applicant for the position of firefighter/paramedic must give evidence of the following qualifications.

- Shall have attained the age of twenty-one (21) on or before date of appointment.
- Shall not be over the age of thirty-five (35) on date of appointment except where the applicant has had continuous service, including one of the past two years, and is in good standing in another public fire division, in which case the candidate may be up to forty (40) years old on the date of appointment. For the purposes of this experience credit, the maximum age is before the 41<sup>st</sup> birthday.
- An applicant for the position of Firefighter/Paramedic, in order to participate in the test, must currently possess a valid Ohio Paramedic certification; or must be eligible to attain such certification through refresher training; or must be currently attending and in good standing at an Ohio EMS Board accredited Paramedic School, such candidate must have achieved a valid Ohio Paramedic certification by the date of appointment. Sufficient proof to satisfy the Director of Human Resources that the applicant has attained the required qualifications must be presented at the time of application.
- Shall have excellent physical condition and be able to pass ability testing
- Shall be able to meet the health requirements necessary to pass a Fitness for Duty examination performed by the City's industrial medicine physician group. Professional fees for the required medical examination shall be paid by the City.

### 3.3 (c) Residency Requirements for Police and Fire Division

At such times as residency requirements are mandated or revised by statute, sworn members of the Police Division shall reside within the territorial limits determined contractually and the Fire Division shall establish actual physical residence within the following areas of Ashland County:

Montgomery Township, Milton Township, Clear Creek Township, Orange Township, Jackson Township, Perry Township, Mohican Township, Vermillion Township, Mifflin Township, and all cities, towns or villages within said townships.

Residency shall be obtained within one (1) year after completion of the probationary period to either Division. Sworn members of each division must remain residents of such areas for the duration of the time they are employed by the Division.

### 3.4 Investigation

The Director of Human Resources may investigate the information provided by any applicant. Although rejection may be based upon other causes as well, the following may be cause for the Director of Human Resources to reject an application or disqualify an applicant:

- a) The applicant fails to meet the minimum qualifications or preliminary requirements of the position.
- b) The applicant fails a drug test which would impair his/her current ability to perform the functions of the job.
- c) The applicant has been convicted of a felony. THE EMPLOYER CAN ONLY ASCERTAIN IF THE APPLICANT HAS BEEN CONVICTED OF A FELONY DURING THE BACKGROUND INVESTIGATION. THE CONVICTION(S) MUST BE CONSIDERED ON A CASE BY CASE BASIS IN DETERMINING IF THE APPLICANT SHOULD BE DISQUALIFIED.
- d) The applicant has been guilty of infamous or notoriously disgraceful conduct.
- e) The applicant has been previously dismissed from any public service for inefficiency, delinquency or misconduct.
- f) The applicant has made false statements of any material fact; or practiced, or attempted to practice any deception or fraud in the application or examination; or in establishing eligibility; or in securing appointment.
- g) The applicant has a pattern of poor work habits and performance with previous employers, as set forth in the O.R.C. 124.25 via R.C. 124.40, (SB 99).

Any applicant who is disqualified from competing for a position and whose application is rejected pursuant to this section, may, within five (5) days after notice of rejection or disqualification, appeal in writing to the Commission for review of such ruling. The decision by the Commission upon review shall be final.

## **RULE IV. EXAMINATIONS (O.R.C. 124.22 & 124.23)**

### **4.1 Purpose of Examinations**

All original appointments and all promotions in the classified service shall be filled according to merit and fitness, to be ascertained as far as practicable, by competitive examination.

All examinations and tests shall be practical and impartial and shall relate to matters that will fairly test, measure and assess the relative capacity or potential of the persons examined to discharge the duties and responsibilities of the position sought.

### **4.2 Administration of Examinations**

The Commission shall have control of all examinations, although the Director of Human Resources, acting as the Administrative Secretary to the Commission, shall be responsible for receiving and reviewing applications, and for administering all examinations.

### **4.3 Determination of Vacancy**

When the appointing authority determines that a vacancy exists in an authorized position in the classified service and that such position must be filled, and no valid eligible list exists for such position, then the Director of Human Resources shall establish the date and type of examination that will be given for the position. Notification of the vacancy, and the date and type of examination shall be delivered to the Commission.

### **4.4 Announcement**

For all open examinations the Director of Human Resources shall announce the vacancy by placing an advertisement in a local newspaper of general circulation for not less than 3 days, with the Ohio Bureau of Employment Services, AND IN OTHER MEDIA AS DETERMINED BY THE DIRECTOR OF HUMAN RESOURCES.~~in a local newspaper of general circulation, with the Ohio Bureau of Employment Services, and in other publications as necessary, for three (3) successive days.~~ The announcement shall state the last date that applications will be received.

Vacancies in each classification shall be advertised separately. Multiple vacancies in one classification may be combined into one (1) announcement. The minimum qualifications for each position shall be included in the announcement, as provided in Rule 3.3. For all tests, the date, time and location of the test shall be included in the announcement.

A copy of the announcement shall be sent to all City divisions and posted in a conspicuous location in the Municipal Building and other places throughout the City. The Director of Human Resources shall also send a copy of the announcement to organizations which have filed requests to be notified of examinations.

### **4.5 Classified Positions Filled Without Competition (O.R.C. 124.30)**

In addition to those unclassified positions designated in Rule 2.2, certain positions in the classified service may be filled without competition as follows:

- a) When a position requires exceptional qualifications of a scientific, managerial, professional or educational nature, the Commission may suspend competition for the position, provided satisfactory evidence can be presented showing that competition is impracticable and that the position can best be filled by the selection of some designated person of high and recognized attainment.
- b) Non-competitive examinations may be held for unskilled entrance level positions as set forth in Rule 6.8.
- c) When there are urgent reasons to fill a vacancy in the classified service, and no eligible list exists for such position, the appointing authority may nominate and the Commission shall approve a person to serve in the position.
- d) In case of an emergency, an emergency appointment may be made without regard to competitive examination, but in no case shall such appointment continue longer than thirty (30) days, nor shall such appointments be successive.
- e) Temporary appointments, made necessary by reason of sickness or disability of regular employees, may continue only during such period of sickness or disability.
- f) Intermittent appointments, made necessary by reason of unpredictable intervals of work in hours, days, and frequency, may continue as long as the need exists. (S.B. 99)
- g) When it is necessary to obtain the services of a vacant classified position only for a temporary period, and the need of such service is important and urgent, the appointment shall be made at the pleasure of the appointing authority.

#### **4.6     Conducting Examinations**

All examinations shall be conducted under the supervision of the Director of Human Resources, who may designate or contract on behalf of the Commission for special examiners as required. Examinations may be held at such times and at such places as the Director of Human Resources shall determine and announce.

Visitors or observers shall not be admitted to the examination room or location during any examination, except by permission of the Director of Human Resources. The Director of Human Resources may provide for assistance for handicapped applicants who are otherwise qualified. Such assistance shall be limited to reading the examination and/or marking the answers as directed by the applicant.

Whenever practicable, special examinations shall be arranged for legally blind or legally deaf persons applying for original appointments in the classified service to ensure that their abilities are not subject to discrimination because they are legally blind or legally deaf.

Competitive examinations shall be made up of one or more of the following tests, to be used as the Director of Human Resources may determine, and conducted in accordance with the procedures set forth. When more than one test is to be used as part of the examination process, or where a test is made up of two (2) or more distinct parts, the score received on the entire

battery of tests shall be calculated into one total score that represents the candidate's level of achievement. The total score shall be used to rank order the candidate on the appropriate Civil Service list. The Physical Ability test conducted in the Police and Fire Divisions shall be the only exception to producing one total score and shall be scored Pass or Fail based on establish job related physical ability criteria.

#### **4.6 (a) Written Tests**

Written tests shall be used to test aptitudes, achievement and knowledge as it relates to the duties of the position being sought. Such tests may include: objective questions designed to test the applicant's familiarity with information and material which could reasonably be expected in the position; standardized tests; or, a written dissertation on one or more subjects dealing with problems encountered in the classification. Written tests may also be used to evaluate mental fitness, character traits, and attitudes provided such tests are related to the duties of the position sought. Where appropriate, the written test may be administered at the time of application.

Written promotional tests shall be administered to all applicants on the date(s) announced. Prior to the start of the test, each applicant shall complete and sign an identification card indicating the number the applicant must use to identify the examination form and answer sheets, and other such information as required. The identification cards shall be sealed in a blank envelope. The identity of the person taking the test shall be concealed from the examiners by the use of the identification number on the examination form and answer sheet.

No applicant shall be admitted to any written test after any other applicant who has seen the questions has withdrawn from the examination room, except by special permission of the examiner in charge.

All tests shall be graded and recorded by rank and identification number (ID). The sealed envelope containing the ID shall be opened and the names matched to the appropriate number by the administrative secretary of the Civil Service Commission in the presence of a notary public. The notary public shall notarize the completed eligibility list. The eligibility list shall be presented to the secretary of the Civil Service Commission for review and certification. The administrative secretary and/or the secretary of the Civil Service Commission may appoint another member of the Civil Service Commission to act in their absence. When appropriate, the tests may be graded and recorded as the applications are filed.

#### **4.6 (b) Unassembled Tests**

Unassembled tests shall be used to establish a relative comparison and evaluation of education, experience, and training of applicants, based on the information provided on the application and other background material. The examiner shall use a consistent standard of ranking the qualifications of all applicants.

#### **4.6 (c) Performance Tests**

Performance tests shall be used to test the applicant's abilities and manual skills to perform the work involved in the classification. Such tests shall involve similar tasks for all applicants competing for the same position, and shall be related to the actual duties and responsibilities of

the position. The Director of Human Resources may designate a person who is familiar with the skills required in the position to be the examiner on such tests.

**4.6 (d) Ability Tests**

Ability tests shall be used to test muscular strength, agility, endurance and coordination, as it relates to the ability to perform the work involved in the classification. Ability tests may include a skills demonstration as developed by the Director of Human Resources in conjunction with the Division Director and approved by the appointing authority.

Ability tests shall involve similar physical fitness requirements and job related activities for all applicants, and shall be graded pass or fail in a consistent manner.

**4.6 (e) Oral Tests**

Oral tests shall be used to evaluate the knowledge, personal qualifications and communication skills of applicants. Such tests shall be practical; evaluated in a consistent manner; and related to the duties of the position sought.

Oral tests shall involve similar questions for all applicants. Oral tests shall be given by two (2) or more individuals, which may include the Director of Human Resources, familiar with functions of the position being tested or its responsibilities. The examiners shall average their scores to determine the final score of the applicant.

**4.6 (f) Assessment Center Tests**

Assessment Center tests shall be used to evaluate the knowledge, personal qualification, communications skills, problem-solving skills and administrative skills of the applicant or candidate. Such tests shall be practical; evaluated in a consistent manner; and related to the duties of the position sought.

**4.6 (g) Psychological Tests**

Psychological tests shall be used to evaluate the personality characteristics of the applicant or candidate. Such tests shall be administered by a licensed mental health or other licensed professional and shall be a nationally recognized standard evaluation tool. Such tests shall be practical; evaluated in a consistent manner; and related to the duties of the position sought.

**4.7 Postponement or Cancellation of Examinations**

The Director of Human Resources, acting on behalf of the Civil Service Commission, may postpone any examination because of an inadequate number of applications, because of non-attendance of special examiners, or for other sufficient cause; or, may cancel any examination which becomes unnecessary because of a change in the personnel requirements of the City.

**4.8 Grading Examinations**

All examinations shall be graded or ranked by the Director of Human Resources or a designee and the results certified to the Commission.

Written tests shall be graded by a statistical method which establishes one hundred (100) questions equal to one hundred percent (100%) so that sixty-five percent (65%) shall be the minimum level of attainment.

Non-written tests shall use the same scale as for written tests or, if more appropriate for assuring an accurate grade, a consistent passing mark may be used which represents the minimum performance level for each test. The results of the non-written tests may then be ranked by the examiner according to the level of performance obtained on the test, with the highest performance being at the top.

#### **4.9**     Military Credit (O.R.C. 124.23)

An applicant who has served on active duty in the armed forces of the United States, as defined in Section 124.23 of the Ohio Revised Code, for a period of one year (365 days), and has been honorably discharged, shall receive an additional credit of ten percent (10%) of the total grade given in the regular entrance examination, thereby receiving a final grade of ten percent (10%) higher in view of the military service.

Requests for the additional credit for active military service, together with a Certificate of Service (DD214), shall be submitted to the Director of Human Resources with the application for the examination. Credit for military service will not be given if the request is received after an eligible list for the position has been established.

Veteran credit points shall not be added until a passing grade is obtained by the applicant. Veteran credit points shall not apply to any promotional examination.

#### **4.10**    Repeating Examinations

No person who has failed to pass an examination shall be permitted to be re-examined for the same classification within six (6) months of the date of the previous examination. However, the Director of Human Resources may, if the examination is determined to be unfair or unjust and has been voided, permit such person who has failed an examination to be re-examined before the expiration of the six (6) month period. When such re-examination occurs, the applicant's score on any previous ability and/or fitness for duty test administered within the previous six (6) month period may be used at the discretion of the appointing authority. Such applicant disqualified because of an unsatisfactory background investigation may not repeat an examination for the same classification

#### **4.11**    Notice of Examination Results

As soon as the grading or rating of an examination has been completed and an eligible list is established, all applicants may be notified in writing of their individual score or rating, and if successful, of the applicant's final average and related position on the eligible list.

Notification shall be by mail or e-mail or posted on website. Otherwise, grade and relative position may be obtained by inquiring in person at the Human Resources Office not sooner than seven (7) days, nor later than twenty-one (21) days after the examination date.

#### **4.12**    Inspection of Examination Papers

Upon receiving notification of the examination grade, applicants may review the keyed copy of the written test and their own answer sheet, which is identified by their number received during the test. The criteria and standards used for non-written tests may also be reviewed by applicants who took such tests.

When commercially prepared tests are purchased, the City of Ashland will uphold all contract clauses related to the review of testing materials.

This review must be requested within seven (7) days, exclusive of Saturdays, Sundays and holidays from the date of mailing the applicant's notification of the examination grade. If notification is obtained in person, review must be requested within seven (7) days of notification. Review must take place in the presence of the Director of Human Resources or a designee. Note taking in regard to the examination shall not be permitted.

The scoring by the examiners shall be deemed prima facie correct. No examination paper, nor any part thereof, shall be subject to alteration, addition or deletion by the applicant, except that any manifest error of scoring may be corrected by the Director of Human Resources. If the applicant believes an injustice has been done, an appeal, in writing, may be made to the Commission specifying in detail the objection. All written appeals shall be considered and acted on by the Commission. If the Commission is satisfied with the validity of the objection, it shall take such action as necessary to correct the injustice.

The Commission may determine that applicants shall not be permitted to inspect examination papers or selection devices in the following circumstances:

- a) Where inspection would reduce the validity of the selection devices, or
- b) When the examination materials are commercially published, or
- c) When inspection would violate a test security agreement between the test publisher or testing service and the City.

During the period allowed for inspection of examination papers and appeal, additional tests or investigation of applicants or eligibles may continue.

Any applicant who exercises the right to inspect examination papers shall not be permitted to take an examination for the same classification within six (6) months of the inspection, unless a totally different examination form is used.

#### **4.13**    Preservation of Examination Papers

All selection and grading devices and examination papers are the property of the City, and shall be treated as confidential records to the maximum extent possible under the law.

Applications and examination papers of all candidates for employment shall be kept on file in the office of the Director of Human Resources. Applications of those hired shall become a permanent record. Applications of those not hired shall be kept for one (1) year after the

eligibility list expires. Eligibility lists shall be kept for two (2) years after their date of expiration.

**4.14** Fraud in Examination (O.R.C. 124.58)

Any person, either alone or with another, who attempts to interfere with or otherwise jeopardize the integrity of the examination and grading process, shall be prohibited from receiving appointment with the City. In extreme cases, the Commission may pursue criminal prosecution or such other legal remedies or sanctions as may be appropriate.

No person, applicant, employee or officer shall knowingly:

- a) Deceive or obstruct any person in respect to their right of examination, appointment or employment pursuant to the Civil Service laws or any rules and regulation promulgated thereunder;
- b) Falsely mark, grade, estimate or report upon the examination or proper standing of any applicant, or make false representations concerning the results of such examination, or make false representations concerning any person examined;
- c) Furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person examined, appointed or employed;
- d) Impersonate any other person, or permit or aid in any manner in such impersonation, in connection with any application, examination or appointment;
- e) Furnish any false information on their own application, or about another person, in connection with any application, examination or appointment;
- f) Assist any applicant in taking an examination, in any manner whatsoever except as may be permitted under these rules;
- g) Personally solicit a favor from any member of the Commission, or appointing authority, either directly or through another person, related to receiving special consideration on an examination or for appointment to a position.

**RULE V. ELIGIBLE LISTS (O.R.C. 124.26)**

**5.1** Creation of An Eligible List

The Director of Human Resources shall provide the scores and final ranking of each applicant to the Commission at the completion of the examination. In the case of a written test, the identification number of each applicant shall be matched with the test scores as provided in 4.6(a).

From the returns of each competitive examination the Commission shall establish an eligible list, listing the applicants in the order of their final passing score or rating, with the highest score or

rating being at the top of the list, and the lowest score or rating being at the bottom of the list. The score of any applicant failing to qualify shall not be made public.

In an open competitive examination for original appointment, if two (2) or more applicants receive the same final score, priority in time of filing the application shall determine the order in which the names shall be placed on the eligible list. However, applicants eligible for military credit under Rule 4.9 shall receive priority in rank on the eligible list over non-veterans on the list with a score equal to that of the veteran. Ties among veterans shall be decided by priority of filing application.

#### **5.1(A) LATERAL TRANSFER IN THE POLICE DIVISION**

THE CIVIL SERVICE COMMISSION HEREBY CREATES A LATERAL TRANSFER ELIGIBILITY LIST FOR THE POLICE DIVISION. THE APPOINTING AUTHORITY MAY HIRE A POLICE PATROLMAN FROM EITHER THE CIVIL SERVICE ELIGIBILITY LIST OR THE LATERAL TRANSFER ELIGIBILITY LIST. THE MINIMUM QUALIFICATIONS FOR THE LATERAL TRANSFER LIST ARE:

- a) MUST BE A UNITED STATES CITIZEN;
- b) MUST POSSESS A VALID OHIO DRIVER'S LICENSE AND BE INSURABLE UNDER THE CITY'S VEHICLE INSURANCE PROGRAM;
- c) MUST HAVE COMPLETED SECONDARY EDUCATION (DIPLOMA OR GED);
- d) MUST MEET CIVIL SERVICE RULE 3;
- e) MUST BE CURRENTLY EMPLOYED AS A FULLTIME PEACE OFFICER WITH A CURRENT OPOTA PEACE OFFICER CERTIFICATION WORKING A MINIMUM OF 35 HOURS PER WEEK IN A JURISDICTION IN THE STATE OF OHIO. FOR THE PURPOSES OF THIS ARTICLE, "JURISDICTION" IS DEFINED AS ANY OHIO MUNICIPAL, STATE, COUNTY OR STATE UNIVERSITY ENTITY WHICH UTILIZES A LAW ENFORCEMENT AGENCY;
- f) MUST PASS THE PHYSICAL ABILITY TEST.
- g) THE LATERAL TRANSFER PATROLMAN'S SENIORITY SHALL START ON THE DATE OF HIRE WITH THE CITY OF ASHLAND (CIVIL SERVICE RULE 8.6).

#### **5.2 Duration of An Eligible List**

An eligible list shall be in effect for one (1) year from the date on which it is established by the Commission. Any eligible list that has been reduced to six (6) names or less may be abolished at any time by the Commission, or at the request of the Director of Human Resources. The Commission may, at the request of the Director of Human Resources, extend the use of an expired eligible list for up to one additional year. Under no circumstances may an eligibility list be valid for more than two (2) years. When such eligible list consists of persons laid-off from the classification for which the eligible list exists, the laid-off employee or employees shall continue to constitute an eligible list until their eligibility for appointment expires as provided in Rule 5.3.

When the eligible list is made up solely of laid-off employees, the City may nevertheless proceed with an examination to create a new eligible list for the classification, provided that the laid-off employees shall be placed at the top of the new eligible list as provided in Rule 5.3.

THE LATERAL TRANSFER LIST SHALL BE A RUNNING LIST GOOD FOR ONE (1) YEAR AND EACH YEAR THEREAFTER.

### **5.3**     Layoffs on An Eligible List

When any permanent classified employee is laid-off the name of such person shall be placed at the top of the eligible list for the classification from which the employee is laid off. If there is no existing eligible list at the time, the name of such person shall constitute an eligible list. When two (2) or more persons have been laid-off, whether at the same time or not, their names shall be placed at the top of such eligible list in the order of their date of appointment in the classification held by them when laid off. Such persons shall be eligible for certification and reappointment for a period of one (1) year thereafter.

### **5.4**     Removal of A Name From An Eligible List

The Director of Human Resources, upon notifying the Commission, may remove the name of an eligible from the eligible list for any one or more of the following causes:

- a) Failure of the eligible to report or arrange for an interview with the appointing authority within five (5) days after receiving notice of certification and being advised to contact the appointing authority.
- b) Failure to respond within five (5) days to a notice from the Director of Human Resources or the Commission.
- c) Declining an appointment.
- d) Failure to notify the Director of Human Resources of a change of address.
- e) Misrepresentation, fraud or cheating in connection with any application or test.
- f) Rejection of the eligible for any of the causes listed in Rule 3.4, or for any reason approved by the Commission.
- g) The eligible has a pattern of poor work habits and performance with previous employers. (O.R.C. 124.25) (S.B. 94)
- h) After a preliminary background investigation is conducted, the applicant on the eligibility list is passed over two (2) times from that list without being appointed.

The applicant must be notified upon being removed from the eligible list unless the whereabouts of the applicant is unknown.

Reinstatement to an eligible list may be requested by the applicant in writing to the Commission within seven (7) days after mailing the notification of removal. The Commission may convene a hearing to resolve the matter. Upon approval by the Commission for good cause, the name of such person shall be restored to the eligible list in a position determined by the score obtained by the applicant on the examination.

If an eligible's name appears on more than one list, appointment to a position in one class shall be considered a waiver for appointment from other eligible lists.

### **5.5**     Investigation of Eligibles

Upon the establishment of an eligible list, the Director of Human Resources may conduct or authorize an investigation as to whether the eligibles possess the necessary standards of health, physical attributes and mental soundness necessary to perform the duties and responsibilities of the position sought. When necessary to accelerate the hiring process, the eligibles may be investigated prior to certification.

The investigation may include an ability test, skills demonstration, a fitness for duty examination, psychological and/or psychiatric examination, polygraph examination, background investigation, personal interview, or any other method necessary to ascertain the qualifications and abilities of the applicant.

If an eligible is found, during the investigation, to be unqualified or unsuitable for the position, such person may be removed from the eligible list by the Director of Human Resources. The Commission shall be notified and informed of the reasons for removal. If the eligible's name was on a list certified by the Commission from which appointments could be made, an additional name shall be certified to replace each eligible so removed.

The person against whom objection is made may appeal such objection to the Commission within seven (7) days after mailing of such notification.

## **RULE VI.     APPOINTMENTS (O.R.C 124.27) (S.B. 99)**

### **6.1**     Certification from An Eligible List

After the establishment and certification of an eligible list for a classification by the Commission, the Director of Human Resources shall supply to the appointing authority the names and addresses of the ten (10) persons OR TOP TWENTY-FIVE (25) PERCENT, WHICHEVER IS GREATER, standing highest on the eligible list for the class or grade to which the position belongs, provided the director may certify less than ten names if ten names are not available. When more than one vacancy is to be filled in a classification, a group of names may be certified from the eligibility list and the appointing authority shall appoint in the following manner: beginning at the top of the list, each time a selection is made it must be from one of the first ten candidates remaining on the list who is willing to accept consideration for the position.

When there is not the required number of names on the eligible list that could be certified as provided herein, the entire list may be certified. When any eligible list with less than six names is certified to an appointing authority, appointment from that list shall not be mandatory unless one or more names on the list are persons previously laid off and retain recall rights.

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 which the Commission determines to be most appropriate for the classification in which the position to be filled is classified.

If an eligible has been certified by the Commission, and is removed from the eligible list as provided in Rule 5.4, then the Commission shall certify the next highest name on the eligible list so that the appointing authority has the opportunity to select each appointment from ten (10) qualified eligibles. As a matter of local self-government and in the best interest of the City, all divisions, including the Fire Division, shall select each appointment from ten (10) qualified eligibles.

### **6.2**     Certification More Than Five Times

As a matter of local self-government and in the best interest of the City, if a person is certified from an eligible list four (4) times to the same appointing authority for the same classification, and is not appointed, the eligible person may be omitted from future certification to that appointing authority. (OAC 123:1-17-03)

### **6.3**     Military Service Preference (O.R.C. 124.27)

An eligible who has been honorably discharged from the armed services of the United States, as defined in Section 124.27 of the Ohio Revised Code, shall be entitled to preference in original appointments to any competitive position in the classified service over all other persons on the same eligible list for a classification with a rating or score equal to that of the veteran.

### **6.4**     Permanent Appointments

After certification of the eligibles by the Commission to the appointing authority and the Director of Human Resources, the appointing authority and/or the Director of Human Resources may conduct interviews or otherwise investigate the eligibles certified, as provided in Rule 5.5.

Thereafter, the appointing authority may make the appointment and so notify the Director of Human Resources.

### **6.5**     Temporary or Emergency Appointments (See Rule 4.5) (O.R.C. 124.30) (S.B.99)

In case of an emergency, an appointment may be made without regard to the Civil Service laws or the rules of the Commission, but in no case shall such appointment continue longer than one hundred twenty (120) days, nor shall such appointments be successive.

Temporary appointments, made necessary by reason of sickness, disability or other absence of regular employees, may continue only during such period of sickness, disability or other absence.

When it is necessary to obtain the services of a vacant classified position only for a temporary period, not to exceed one hundred twenty (120) days, and the need of such service is important and urgent, the appointing authority may select for such temporary service any person at the pleasure of the appointing authority. Successive temporary appointments to the same position

shall not be made. Improperly appointed or unqualified employees are subject to termination. (OAC 124-1-04)

Such temporary appointments shall not be eligible to serve as sworn members of the Police Division or Fire Division.

When it is necessary to make seasonal appointments for a period not to exceed forty (40) weeks, such appointments may be made at the pleasure of the appointing authority (O.R.C. 124.30).

Temporary, emergency, or seasonal, employees may be dismissed at any time, and do not have the same rights and privileges as permanent employees, except when specifically granted. Such employees are hired and serve according to the following conditions:

- 1) They are not eligible to transfer to another position.
- 2) They are not eligible to take a promotional examination.
- 3) They do not serve a probationary period, therefore days of employment do not count toward the waiting period for benefits.
- 4) They are not placed on an eligible list during lay-off.

**6.6 Noncompetitive Appointments (O.R.C. 124.30) (S.B. 99)**

When there are urgent reasons for filling a vacancy in any position in the classified service, and the Director of Human Resources is unable to certify to the appointing authority, upon request, a list of persons eligible for appointment to the position after a competitive examination, the appointing authority may fill the position by noncompetitive examination.

**6.7 Unskilled Service**

The unskilled service may involve permanent full-time employees, temporary, seasonal or part-time employees, or intermittent employees hired pursuant to non-competitive examinations.

When a classified unskilled position is to be filled, such position shall be advertised as provided in Rule 4.4 and applications made to the Director of Human Resources. The Director of Human Resources shall evaluate the applications and give such tests as the Director of Human Resources may prescribe. A priority list of applicants shall be compiled by the Director of Human Resources from which appointments shall be made.

Unclassified unskilled positions, as provided in Rule 2.2 (j), are those unskilled positions for which it is impracticable to select by competitive examination.

The Commission shall determine which classifications are in the unskilled service, and the Director of Human Resources shall maintain a current allocation list of positions in the unskilled service.

**6.8**     Intermittent Appointments (O.R.C. 124.36) (S.B. 99)

When it is necessary to secure services for a vacant position, but such services may be employed as needed on an unpredictable work schedule, the appointing authority may hire an intermittent employee who shall serve at the pleasure of the appointing authority, and may do so without recourse to an eligible list. Intermittent employees are subject to Rule 6.6. (1-4)

**RULE VII.     PROBATIONARY PERIOD (O.R.C. 124.27)**

**7.1**     Purpose

The probationary period shall be regarded as an integral part of the examination process and shall be utilized for closely observing and documenting the employee's work; for securing the most effective adjustment of a new employee to a new job; and for dismissing any employee whose performance does not meet required work standards.

**7.2**     Probationary Period

All original appointments in the classified service shall be for a probationary period of one (1) year from the date of such appointment except in the Division of Police which shall be one year after the time of completing all special training requirements as specified by the position description; and the Division of Fire which shall be one (1) year from the time of completion of all special training requirements as specified by the Position Description, not to exceed a total of two (2) years from the date of appointment; except in the case of reinstatement after having satisfactorily served a period of probation in which case probation shall be three (3) months after reinstatement (See 9.5 Reinstatement).

All permanent promotional appointments in the classified service shall serve a probationary period of ninety (90) days from the date of such promotion, except that all permanent promotional appointments in Division of Police and Division of Fire shall serve a probationary period of one hundred eighty (180) days from the date of such promotion. If during that period the service of the employee so appointed is not satisfactory, the employee may be reduced to the position from which the promotion was made.

Probationary period for permanently transferred employees shall be as stated in Rule 9.1.

No appointment or promotion is final until the appointee has satisfactorily served the probationary period.

**7.3**     Removal or Reduction of A Probationary Employee

If the service of the probationary employee is unsatisfactory, such employee may be removed or reduced at any time during the probationary period after completion of sixty (60) days or one-half of the probationary period, whichever is greater. If the probationary employee is to be removed, the Director of Human Resources shall notify the Commission of the reason for such decision. Removal during the probationary period is not appealable.

**7.4**     Absence During Probationary Period

Whenever a probationary employee is granted a leave of absence, sick leave, or is laid-off, suspended for discipline purposes, or is otherwise absent from work for more than five (5) days, the probationary period shall be extended the amount of time over five (5) days that the employee missed from work. The five (5) days maximum absence shall be cumulative during the probationary period. Any days missed beyond the five (5) days shall be added to the length of the probationary period.

**7.5**     Application of Rule VII to Existing Employees

The provisions of Rule VII, relating to probationary periods, shall apply to all probationers serving at the time this rule becomes effective, but in no event shall the total probationary time exceed the total period provided under these rules.

**RULE VIII.   PROMOTIONS (O. R. C. 124.31)**

**8.1**     Procedure for Promotions (O.R.C. 114.31 and 124.23) (S.B. 99)

The method of examination for promotions, the manner of giving notice thereof, and the rules governing the procedure of promotions shall in general be the same as those provided in Rules IV, V, VI, XII and other related rules, unless otherwise specifically provided in Rule VIII. Vacancies in authorized positions in the classified service above the lowest classifications shall be filled, as far as practicable, by promotions.

Promotions shall be made on the basis of merit, to be ascertained as far as practicable by promotional examinations, by conduct and capacity in office, and by seniority in service. In promotional examinations, seniority in service shall be added to the examination grade, but only after the applicant achieves at least the minimum passing score. All examinations for promotions shall be competitive.

**8.2**     Eligibility for Promotions

All promotional ranks within the Police Division and the Fire Division shall be filled by promotion, according to the procedures set forth in these rules, except as may be otherwise provided in Rules 8.7 through 8.12.

In regard to all other promotions, the Director of Human Resources shall in each case determine whether or not it is practicable to fill a position by promotion; from what classification or classifications such promotions shall be made; the minimum qualifications for the position; and the tests to be used for the promotion.

The Director of Human Resources may limit eligibility to the same division within which the promotion is being made. The Director of Human Resources may also authorize a combined open and promotional examination for a position.

Eligibility for a promotional examination shall be limited to permanent employees who have satisfactorily completed their probationary period in the eligible class or classes and have received a satisfactory rating average for the year preceding the examination.

However, when an open examination is to be given for a promotional position, employees serving their probationary year in another position may take the open examination. If such employee is certified and receives the promotion, the employee's probationary period in the new position shall be the greater of ninety (90) days from the date of promotion, or the balance of the probationary year dated from the time of original appointment with the City.

### **8.3 Underfilling A Promotional Position**

When a vacancy in a promotional position has been announced, and an insufficient number of qualified applicants are available for either an open or promotional examination, then, with the approval of the Commission, such promotional position may be underfilled by appointing to the position an employee who has less than the minimum qualifications for the position.

### **8.4 Three or Fewer Applicants for Promotion**

Whenever there are three (3) or fewer eligible employees to compete in a promotional examination, an unassembled examination may be given to the applicants to determine their ranking on the eligible list.

In exceptional cases, the Commission may authorize the promotion of an eligible employee upon presentation of satisfactory evidence that competition is impractical.

Promotional examinations in the Police Division and the Fire Division shall be conducted only according to procedures set forth in Rules 8.7 through 8.12, unless otherwise specifically provided in these rules.

### **8.5 Grading of Promotional Examinations (O.R.C. 124.31) (B), (S.B. 99)**

Promotional examinations shall be graded in accordance with the procedures in Rule 4.8.

The candidate's final score shall be determined by adding seniority credit points to the total examination score. Credit for seniority shall equal for the first four years of full-time continuous service, one percent of the total grade attainable in the promotion examination, and, for each of the fifth through fourteenth years of full-time continuous service, six-tenths per cent of the total grade attainable.

Credit for seniority shall equal for the first four years of part-time continuous service (six or more months per year), one-half percent of the total grade attainable in the promotion examination, and, for each of the fifth through fourteenth years of part-time continuous service (six or more months per year), three tenths per cent of the total grade attainable.

Seniority credit shall not be awarded to promotional candidates who fail to receive a passing grade on the promotional examination.

When a tie exists after calculating the final score of the candidates, including seniority credit, then seniority in the classification from which the promotion is sought shall determine the order of the scores. If a tie still exists, then the final score by which the candidates obtained the classification from which the promotion is sought shall determine the order of the scores.

## **8.6**     Calculation of Seniority Credit

Seniority credit shall be the amount of continuous service an employee has accumulated in the service of the City, according to the following rules:

- 1) Any permanent employee who has served as a temporary or probationary employee and who has achieved permanent status with no interruption in service shall receive seniority credit for the continuous service during the period served as a temporary or probationary employee.
- 2) Part-time employees shall have their continuous service pro-rated as it relates to full-time service.
- 3) Any leave without pay other than for sickness, injury, military leave or other excused absence shall be subtracted when computing the continuous service of an employee.
- 4) The continuous service of a permanent employee who has resigned and been reinstated shall be computed from the time of the last reinstatement, and no seniority credit shall accrue for service prior thereto.
- 5) Any person who is in “lay-off” status will not suffer loss of seniority credit. (O.R.C. 124.32), (S.B. 99)
- 6) Seniority credit shall not be given for service as a student, TEMPORARY, emergency employee, seasonal, or intermittent employee.
- 7) The appointing authority will compute the total retention points for each employee in the classification affected by a layoff or position abolishment, including the classifications in which displacement can occur.
- 8) Employees shall be assigned a base of one hundred retention points. Full-time employees will be credited with one retention points for each bi-weekly pay period of continuous service. Retention points for continuous part-time service shall be calculated on the basis of one-half (0.5) point for each bi-weekly pay period of continuous service. Overtime shall not be considered for purposes of computation of retention points for continuous service. (OAC 123:1-41-09)

## **8.7**     Promotional Examination in the Police Division

### **8.7(a)**   Police Sergeant, Lieutenant and Captain

No positions above the rank of Police Officer, exclusive of the position of Chief of Police, shall be filled by original appointment. Vacancies shall be filled by promotion from persons holding a rank lower than the position to be filled. Promotion shall be by successive ranks in so far as practicable.

No Police Officer shall be eligible to take a promotional examination without serving thirty-six (36) months in the Police Officer rank unless there are less than two (2) persons in the Police

Officer rank who have served thirty-six (36) months therein and are willing to take the examination, in which case the thirty-six (36) month service requirement shall not apply.

For all other ranks above that of Police Officer, no person shall be eligible to take the examination unless such person has served twelve (12) months in the rank from which the promotion is to be made, except where there are less than two (2) persons in such lower rank who have served twelve (12) months therein and are willing to take the examination, then the twelve (12) months service credit shall not apply to the next lower rank. If such procedure does not produce two (2) persons eligible and willing to compete, then the same method shall be followed by going to successively lower ranks until two (2) or more persons are eligible and willing to compete. If the process of going to the next lower rank reaches the rank of Police Officer, the thirty-six (36) month service requirement applies, unless two (2) persons who are eligible and willing to compete are not obtained, then the thirty-six (36) month service requirement does not apply. If two (2) persons who are eligible and willing to compete cannot be found, then the one person who is willing to compete shall be appointed to fill the vacancy after passing a qualifying exam.

When the Mayor determines that there is a vacancy in an authorized position of Sergeant or Lieutenant, and there is no eligible list for such rank, such vacancy shall be posted at least sixty (60) days prior to the commencement of the testing process.

Upon creation of an eligible list for Sergeant or Lieutenant, the name highest on the eligible list shall be certified to the Mayor, who shall appoint by selecting the candidate(s) from the certified list in the order in which they appear from highest to lowest. The position shall be filled within thirty (30) days from the date of certification. (List of 1)

When the Mayor determines that there is a vacancy in an authorized position of Sergeant or Lieutenant, and an eligible list does exist, the person highest on the list shall be certified, and the Mayor shall appoint such person within thirty (30) days from the date of such certification. (List of 1).

When the Mayor determines that there is a vacancy in an authorized position of Captain and there is no eligible list for such rank, such vacancy shall be posted at least sixty (60) days prior to the commencement of the testing process

Upon creation of an eligible list for Captain, the two names highest on the eligible list shall be certified to the Mayor, who shall appoint one candidate from the certified list. The position shall be filled within thirty (30) days from the date of certification. (List of 2)

When the Mayor determines that there is a vacancy in an authorized position of Captain, and an eligible list does exist, the person on the list shall be certified, and the Mayor shall appoint such person within thirty (30) days from the date of such certification. (List of 2)

#### **8.7(b) Chief of Police**

Promotion to the rank of Chief of Police may be from within the ranks of the Police Division or may be made from outside the City ranks.

When the Mayor determines that there is a vacancy in the authorized position of Chief of Police and there is no eligible list for such rank, such vacancy shall be posted within at least 60 days prior to the commencement of the testing process.

The Mayor may elect to solicit candidates from outside the ranks of the City of Ashland. The Mayor shall determine the qualifications to be posted to the public and shall receive applications from qualified candidates for the position of Chief of Police. If the Mayor elects to solicit candidates from outside the ranks of the City of Ashland, the Mayor or designee shall select the top three (3) outside candidates to take part in the promotional examination process. (List of 3)

Within the ranks of the City, the Director of Human Resources, acting for the Civil Services Commission, shall determine eligibility for promotion according to the procedure as set forth in 8.7(a). Officers will be informed by the Director of Human Resources as to their eligibility to participate in the examination process. Officers and/or all candidates must meet the minimum qualification for the position to be eligible to participate.

Promotional examinations shall relate to those matters which test the ability of the person examined to discharge the particular duties of the position and shall be conducted as set forth in Rule 4.6 Conducting an Examination. The Director of Human Resources, acting for the Civil Service Commission, shall have the authority to determine the testing process.

Upon creation of an eligible list, the names of the top three candidates highest on the eligible list shall be certified to the Mayor, who shall appoint one person within thirty (30) days from the date of such certification. (List of 3)

When the Mayor determines that there is a vacancy in an authorized position of Chief of Police, and an eligible list does exist, the top three (3) persons highest on the list shall be certified, and the Mayor shall appoint one person within thirty (30) days from the date of such certification. (List of 3)

### **8.8**     Announcement of Fire Division Promotional Examination

When the Mayor determines that there is a vacancy in an authorized position above the rank of Firefighter/Paramedic, and there is no eligible list for such rank, such vacancy shall be posted at least sixty (60) days prior to the commencement of the testing process.

### **8.9**     Promotional Examination in the Fire Division (O.R.C. 124.45; 124.46; 124.48)

#### **8.9 (a)**   Fire Captain and Assistant Fire Chief

No positions above the rank of Firefighter, exclusive of the position of Chief for Fire, shall be filled by original appointment. Promotions shall be by successive ranks.

No Firefighter shall be eligible to take a promotional examination without serving sixty (60) months in the Firefighter rank unless there are less than two (2) persons in the Firefighter rank who have served sixty (60) months therein and are willing to take the examination, in which case the sixty (60) month service requirement shall not apply.

For all other ranks above that of Firefighter, no person shall be eligible to take the examination unless such person has served twelve (12) months in the rank from which the promotion is to be made, except where there are less than two (2) persons in such lower rank who have served twelve (12) months therein and are willing to take the examination, then the twelve (12) months service credit shall not apply to the next lower rank. If such procedure does not produce two (2) persons eligible and willing to compete, then the same method shall be followed by going to successively lower ranks until two (2) or more persons are eligible and willing to compete. If the process of going to the next lower rank reaches the rank of Firefighter, the sixty (60) month service requirement applies, unless two (2) persons who are eligible and willing to compete are not obtained, then the sixty (60) month service requirement does not apply. If two (2) persons who are eligible and willing to compete cannot be found, then the one person who is willing to compete shall be appointed to fill the vacancy after passing a qualifying exam.

When the Mayor determines that there is a vacancy in an authorized position above the rank of Firefighter/Paramedic, and there is no eligible list for such rank, such vacancy shall be posted at least sixty (60) days prior to the commencement of the testing process.

Promotional examinations shall relate to those matters which test the ability of the person examined to discharge the particular duties of the position and shall be conducted as set forth in Rule 4.6 Conducting an Examination. The Director of Human Resources, acting for the Civil Service Commission, shall have the authority to determine the testing process.

The City Director of Human Resources, acting for the Civil Service Commission, shall determine eligibility for promotion. Officers will be informed by the Director of Human Resources as to their eligibility to participate in the examination process. Officers and/or all candidates must meet the minimum qualification for the position to be eligible to participate.

### **8.9 (b) Fire Chief**

Promotion to the rank of Fire Chief may be from within the ranks of the Division of Fire or may be made from outside the City ranks.

When the Mayor determines that there is a vacancy in the authorized position of Fire Chief and there is no eligible list for such rank, a competitive promotional examination shall be held in sixty (60) days or as soon as possible.

The Mayor may elect to solicit candidates from outside the ranks of the City of Ashland. The Mayor shall determine the qualifications to be posted to the public and shall receive applications from qualified candidates for the position of Fire Chief. If the Mayor elects to solicit candidates from outside the ranks of the City of Ashland, the Mayor or designee shall select the top three (3) outside candidates to take part in the promotional examination process. (List of 3)

Within the ranks of the City, the Director of Human Resources, acting for the Civil Service Commission, shall determine eligibility for promotion according to the procedure as set forth in 8.9(a). Officers will be informed by the Director of Human Resources as to their eligibility to participate in the examination process. Officers and/or all candidates must meet the minimum qualifications for the position to be eligible to participate.

Promotional examinations shall relate to those matters which test the ability of the person examined to discharge the particular duties of the position and shall be conducted as set forth in Rule 4.6 Conducting an Examination. The Director of Human Resources, acting for the Civil Service Commission, shall have the authority to determine the testing process.

**8.10** Inspection and Grading of Fire Division Promotional Examinations

Grading and inspection of Fire Division promotional examinations shall be as set forth in Civil Services Rules 4.10 and 4.12.

**8.11** Appointment to Promotional Ranks in the Fire Division

When the Mayor determines that there is a vacancy in an authorized position above the rank of Firefighter, exclusive of the rank of Chief of Fire, and no eligible list exists for such rank, such vacancy shall be posted at least sixty (60) days prior to commencement of the testing process. After such examination has been held, an eligible list shall be established within twenty (20) days of the final date of the revised rating key or answer inspection date, and the Commission shall certify to the Mayor the names of the three (3) persons receiving the highest grade. Upon such certification, the Mayor shall appoint the one person so certified within ten (10) days. (List of 3).

If two (2) or more candidates receive the same grade, seniority in the City Fire Division shall determine the order of their names.

Eligible lists established as provided in this section shall continue for one (1) year.

When the Mayor determines that there is a vacancy in an authorized position above the rank of Firefighter, exclusive of the Chief of Fire, and an eligible list does exist, the top three (3) persons highest on the list shall be certified, and the Mayor shall appoint such person within ten (10) days from the date of such certification. (List of 3)

When the Mayor determines that there is a vacancy in the position of Assistant Fire Chief, the top two candidates from the eligibility list shall be certified to the Fire Chief. The Fire Chief shall recommend the person to be promoted based on criteria that includes, but is not limited to, knowledge required for the position, ability to perform in a fiduciary capacity, experience, qualifications and training, relevant education, work history and personal interview. The Mayor shall appoint from the list of two the person, based on the criteria set forth here-in and the recommendation of the Fire Chief, most qualified for the position.

In the event that no candidate achieves the minimum passing score, the test shall be repeated with expanded eligibility. The next lower rank shall be included in the retest.

**RULE IX. TRANSFERS, LEAVES OF ABSENCE, RESIGNATION, REINSTATEMENT, ABSENCE WITHOUT LEAVE, NON-DISCIPLINARY DEMOTION**

**9.1** Permanent Transfers (O.R.C. 124.32; 124.33)

The Mayor or other appointing authority may assign or reassign employees within a given class among the various divisions under their control as deemed in the best interest of the City.

An employee in the classified service, except for sworn officers of the Police and Fire Divisions, may be transferred to a similar position in the same, or another office or division having the same pay range and similar duties; but no transfer shall be made to a position in another class nor to a position for which original entrance requires an examination involving essential tests or qualifications different from those required for original entrance to the position held by such person. No transfer shall be made to a position carrying a pay range different from or higher than that of the position from which the transfer was made.

In addition, any employee may request transfer to a like position in another division, conditional upon the approval of the Director of Human Resources, the need of the division to which the employee wishes to be transferred, and the Division Directors involved in the transfer. Upon transfer, the employee shall satisfactorily complete a thirty (30) day probationary period.

If an employee does not wish to be transferred, the employee may, within ten (10) days after receipt of such notice, appeal the transfer in writing to the Commission. Pending determination of such appeal the transfer shall continue. The ruling of the Commission shall be final.

## **9.2**     Temporary Transfers (O.R.C. 124.33)

An employee in the classified service may be assigned, for a period not to exceed thirty (30) calendar days, to work other than that described in the specification of the employee's classification, provided such work is of the same general level of responsibility. Such period may continue for ninety (90) days if agreed to by the employee and the appointing authority.

## **9.3**     Leave of Absence

All permanent full-time employees shall be eligible for a leave of absence for cause. A leave of absence may be granted by the Mayor, or appropriate appointing authority of the subject employee, for a definite period not to exceed six (6) months, provided such absence does not disrupt city operations. Such leave, if requested for any reason which is Family Medical Leave Act (FMLA) qualified, shall be without pay or benefits, except as authorized by the Mayor or appropriate appointing authority.

Leaves of absence may be granted for physical disability, for study or training of value to public service, for maternity leave, or for any other purpose approved by the Mayor or the appropriate appointing authority.

A request for leave of absence that does not involve circumstances which require FMLA leave shall be presented to the Mayor or appropriate appointing authority at least twenty (20) days prior to the start of the leave, unless such notice is waived by the Mayor or appropriate appointing authority. The Director of Human Resources shall be notified of all such leaves of absence.

Holiday pay, sick leave, hospitalization, vacation, seniority, and other benefits shall not accrue during a leave of absence, unless specifically authorized by the employee's appointing authority under extraordinary circumstances.

Failure to return to work on schedule from a leave of absence shall be considered a resignation. An employee returning after a leave of absence shall be reinstated to the former position.

#### **9.4 Resignation**

Any employee in the classified service who desires to resign in good standing shall give a written notice to his/her appointing authority at least two (2) weeks prior to the date the employee intends to resign, unless the appointing authority consents to a shorter period. Such request, when approved by the appointing authority, shall be forwarded to the Director of Human Resources, who shall notify the Commission.

If an employee has been served with a dismissal notice, and such notice has been filed with the Commission, and the employee thereupon resigns, the acceptance of the resignation constitutes resignation in bad standing. The charges pending shall be deemed withdrawn and the proceeding shall be dismissed without judgment. The resignation shall be effective immediately and the employee may not be reinstated.

#### **9.5 Reinstatement (O.R.C. 124.32)**

Any employee in the classified service who has resigned in good standing may, within one (1) year of the effective date of such resignation, request in writing from the employee's appointing authority reinstatement to the position from which the employee resigned. Upon approval of the appointing authority, the employee's former division head and the Commission, if a vacancy exists, the employee may be reinstated to the classification from which the employee resigned. If no vacancy exists, the name of the employee shall be placed at the top of the eligible list for the classification from which the employee resigned. If no eligible list exists, such persons named shall constitute an eligible list. However, where such eligible list includes the names of laid-off employees, the laid-off employees shall take priority over any employee who has requested reinstatement. In the uniformed ranks of the Police Division and Fire Division, reinstatement shall be to the position of Police Officer or Firefighter respectively, regardless of the former position held. (See 7.2 Probationary Period)

Reinstatement in the Police Division or Fire Division shall be subject to passing a Fitness For Duty examination, disclosing whether such person is physically fit to perform the duties of Police Officer or Firefighter.

Any person reinstated pursuant to the authority of this section shall not receive credit for seniority earned prior to resignation and reinstatement.

#### **9.6 Police and Fire Reinstatement Following Injury (O.R.C. 124.50)**

Any sworn officer of the Police Division or Fire Division who is separated from duty by injury or physical disability incurred in the performance of duty shall be reinstated immediately. In the case of injury or physical disability incurred other than in the performance of duty the employee may be reinstated upon filing with the Mayor a written application for reinstatement to the position held prior to separation. In either case, before reinstatement the employee must pass a Fitness For Duty examination showing that the employee has recovered from the injury or other

physical disability. Such medical examination shall be made by the City's Industrial Medicine physician within two (2) weeks after application for reinstatement has been made.

The application for reinstatement shall be made within two (2) years from the date of separation in the event of a voluntary disability separation (VDS) or an involuntary disability separation (IDS) from the division, providing that such application shall not be filed after the date of eligibility for retirement. An employee reinstated pursuant to this section shall retain seniority as though there had been no separation. (OAC 123:1-30(E))

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

Absence from duty without leave for any time will be considered neglect of duty and good cause for discipline or dismissal. Absence from duty without leave for two (2) consecutive work days shall be deemed an automatic resignation in bad standing. However, if within five (5) calendar days of the effective date of such resignation the employee submits sufficient evidence explaining that he or she was physically or mentally unable to notify the appointing authority or direct supervisor, the appointing authority may authorize reinstatement.

#### **9.8**     Demotion for Cause Other Than Disciplinary Action

When an employee becomes physically or mentally incapacitated in the performance of the duties of a position, the appointing authority, with approval of the Commission, may reduce the employee to a vacant position in a lower classification which the employee has the ability to fill, at a pay range assigned to such lower classification.

Such demotion may also be made for any other reason upon the written request of the employee and the consent of the appointing authority.

Upon a request for a demotion, the Commission may hold a hearing or otherwise investigate such request prior to making a decision.

### **RULE X.     LAYOFF AND RE-EMPLOYMENT**

#### **10.1**     Reduction in Personnel

Whenever it becomes necessary to reduce the number of employees in the classified service, or to eliminate a position or positions other than sworn officers of the Police Division and Fire Division, the appointing authority shall have the power to designate the classifications, and divisions in which layoffs will be made and the number of layoffs to be made in each classification, and division, without considering the same or similar classifications in other divisions.

#### **10.2**     Order of Layoffs

A reduction in the number of employees in a classification shall be made in the following order:

- 1)     Intermittent
- 2)     Part-time probationary

- 3) Part-time permanent
- 4) Full-time probationary
- 5) Full-time permanent

Divisions shall make every effort to terminate student and emergency employees even when they are not in a classification affected by layoff, in order to avoid laying off other, especially permanent, employees.

### **10.3 Layoffs According to Seniority**

Layoffs of probationary permanent and permanent employees shall be made inversely to their seniority credit. No layoffs shall be affected or influenced by politics, religion, sex, age or race, and no layoffs shall be used as a substitute for disciplinary action.

In the event two (2) or more employees in the same classification of the same Division are subject to layoff and have the same seniority credit, the order of layoff shall be according to their final average score on the examination passed to obtain such classification. The employee with the lowest grade shall be laid off first. In the event the examination scores are not available, the layoffs shall occur in the inverse order of the employees' standing on the original eligible list.

Any permanent employee who has been promoted and is subject to layoff shall be entitled to return to the classification in the division from which the employee was promoted. If such former position has been filled, the most recent employee in that classification shall be demoted into the lower classification occupied, if any, prior to his or her promotion. This process shall continue until the most recently hired employee affected by such demotions shall be laid off.

### **10.4 Seniority Credit**

For the purpose of this rule, seniority credit shall be calculated as set forth in Rule 8.6.

### **10.5 Re-employment**

When any permanent employee is laid off, the name of such person shall be placed at the top of the eligible list of the classification from which the employee was laid off. If there is no existing eligible list at the time, the name shall constitute one. When two (2) or more persons have been laid off from the same classification, whether at the same time or not, their names shall be placed at the top of such eligible list in the order of their appointment in the classification held by them when laid off.

Any such person shall be eligible for certification and reemployment for a period of one (1) year from the date of layoff, or until such time as he/she is removed from the eligible list for the reasons provided in Rule 5.4.

Any such person, after layoff and after being placed on the eligible list, may be offered, for their acceptance or rejection, employment in a lesser or comparable classification (provided the employee is capable of performing the work) without disturbing his or her reemployment rights from the eligible list. Any such person may also accept a temporary position with the City without disturbing his or her reemployment rights from the eligible list.

**10.6**    Layoff and Re-employment in the Police Division and Fire Division

When it becomes necessary to reduce the uniformed force of the Police Division or Fire Division, the youngest employee, in point of service, in the lowest ranks shall be the first laid off.

When it becomes necessary to reduce the number of positions of any rank higher than Police Officer or Firefighter, the youngest officer, in point of service, shall be demoted to the next lower rank and so on down until the youngest officer, in point of service, has been reached and shall be laid off.

If a position is reestablished or a vacancy occurs within three (3) years, the oldest employee, in point of service, among the laid off shall be entitled to reappointment. If after layoff the employee enters into active service in the armed forces of the United States, the period of time served therein by the employee shall not be considered in the running of the three (3) years during which reinstatements shall be made.

In calculating seniority, or point of service, for this rule only years of service in the respective Police Division or Fire Division shall be considered and only such uninterrupted time as a sworn officer of such division.

In the event two (2) or more Police Officers or two (2) or more Firefighters are subject to layoff and have the same point of service (seniority), the order of layoff shall be according to their final average score on their entrance examination; the employee with the lowest grade to be laid off first.

Unless otherwise provided for by this section, reemployment of sworn officers of the Police Division and Fire Division shall follow the procedures of Rule 10.5.

**RULE XI.      PERFORMANCE EVALUATION (O.R.C. 124.31; 124.45)**

**11.1**    Standards of Performance

It shall be the duty of the Director of Human Resources to administer an evaluation program for the purpose of measuring the performance of employees in the classified service and to implement a merit pay increase program as may be established by executive order or by ordinance of Council. Such evaluation program shall measure, as objectively as possible, both quantity and quality of work and such other factors deemed necessary to determine the manner in which the service is rendered. It is recommended that each appointing authority of the city develop and administer an evaluation system for the employees it appoints.

**11.2**    Performance Reports

All permanent employees in the classified service shall be evaluated as frequently as determined by the Director of Human Resources, and approved by the Mayor, to be appropriate for the respective divisions of the City. In no event shall such evaluations be less often than annually. Evaluations must be made in the manner prescribed by the Director of Human Resources and approved by the Mayor.

The factors and method of scoring such evaluation shall be similar for all employees in the same classification and shall bear a fair relationship to the duties and responsibilities of the employees to be rated.

The report must be signed by the employee, indicating merely that the evaluation has been reviewed by the employee. Signing of the evaluation report by the employee does not necessarily designate approval with the evaluation.

When the evaluation report has been marked, reviewed and signed, a copy shall be retained in the employee's division and the original shall be filed with the Director of Human Resources.

Merit increases and promotional opportunities shall be dependent upon an employee maintaining satisfactory standards of performance, as determined by the Director of Human Resources and approved by the Mayor. Any employee with an annual rating of less than satisfactory in the preceding year shall not be eligible for a merit increase or to take a promotional examination, until a satisfactory performance evaluation report is attained.

### **11.3 Appeal of An Unsatisfactory Performance Report**

Any permanent classified employee who receives an annual performance rating of less than satisfactory shall have ten (10) days from receipt of notice thereof to file an appeal with the Commission setting forth supporting facts and evidence that the performance rating was not properly determined. The Director of Human Resources shall, prior to the Commission hearing, inquire of the employee, the supervisors, and the appointing authority with respect to said appeal and submit a report of findings to the Commission. The Commission may amend a performance rating that averages less than satisfactory if it ascertains that the rating was determined arbitrarily or totally without regard to actual performance.

### **11.4 Fitness For Duty Physical Examinations, Mental Examinations and Character Reports of Existing Employees**

The Commission may require Fitness for Duty Physical examinations, mental examinations and character reports of employees in the classified service for the purpose of testing the fitness of said employees for the positions held. A record will be kept by the Director of Human Resources of all such examinations, or character reports.

Any employee who fails to maintain the minimum standards for the position held may be required by his or her appointing authority to pursue such training or assistance necessary to attain the minimum standards, and/or may be subject to disciplinary action for failure to maintain the minimum standards for a position.

Any member of the classified service who, pursuant to the provisions of this paragraph, is called before the Commission as a consequence of the retesting procedure herein provided shall have the right of appeal pursuant to R. C. Chapter 2506 to the Common Pleas Court of Ashland County, Ohio, with respect to any determination made as a result of said retesting. Any such employee shall also be entitled to representation by counsel at all stages of appeal.

**RULE XII. DISCIPLINE (O.R.C. 124.34)**

**12.1 Disciplinary Action**

The tenure of every employee in the classified service shall be during good behavior and efficient service. Any employee in the classified service may be dismissed, suspended (without pay or in-house), demoted, fined, or otherwise disciplined for just and reasonable cause and upon specific written charges. Probationary employees and unclassified employees may be disciplined without specific cause, and do not have the right of appeal to the Commission. (ORC 124.34)

**12.2 Causes for Disciplinary Action**

Disciplinary action may be initiated for any of the following reasons, or for any other failure of good behavior and efficient service:

- a) Incompetency or inefficiency.
- b) Dishonesty.
- c) Drunkenness.
- d) Immoral conduct.
- e) Insubordination, or other failure to obey any lawful and reasonable rule, regulation or direction.
- f) Discourteous treatment of the public or other City employees or officials.
- g) Neglect of duty, including, but not limited to, absence without leave or unexcused absenteeism or tardiness.
- h) Willful or negligent conduct which causes waste or damage to public property.
- i) Solicitation or acceptance of any valuable given in hope or expectation of favored treatment.
- j) Conduct unbecoming an officer or employee of the City.
- k) Any other acts of misfeasance, malfeasance or nonfeasance in office.

**12.3 Disciplinary Procedure**

In any case of reduction, suspension for more than three (3) working days, or removal, the appointing authority shall furnish such employee with a copy of the order of reduction, suspension or removal, stating the reasons for such action. A copy of such order shall be filed with the Director of Human Resources and the Commission.

An employee's supervisor may suspend a classified employee for up to three (3) days without filing written charges against the employee. For suspensions of up to three (3) days, the

employee shall not have the right of appeal to the Commission. However, successive three (3) day suspensions shall not be given to the same employee unless written charges are filed by the appointing authority on the successive suspensions beyond the original three (3) days.

In the case of suspension for more than three (3) working days, or reduction, or removal, the employee's supervisor may prefer charges and/or recommend to the appointing authority that disciplinary action be taken. The appointing authority may then conduct a hearing regarding the proposed disciplinary action, or may impose disciplinary action without such a hearing. In either event, the appeal time of the employee shall begin to run from the time the written notice of discipline is filed by the appointing authority with the Commission.

#### **12.4 Appeal**

Within ten (10) days following the filing of the order for disciplinary action, the employee may file an appeal, in writing, with the Commission. In the event such an appeal is filed, the Commission shall forthwith notify the appointing authority and the Director of Human Resources, and shall hear, or appoint a trial board to hear, such appeal within thirty (30) CALENDAR days from and after its filing with the Commission.

#### **12.5 Hearing**

On its own motion, or on motion of either the City or the affected employee, the Civil Service Commission may appoint a hearing officer to conduct the hearing and issue a report of findings of fact and conclusions of law. If such a hearing officer is so named, such hearing officer will be fully empowered to conduct the hearing. The Civil Service Commission, within fourteen (14) calendar days of the issuance of the decision of the hearing officer to the Civil Service Commission and all affected parties, must meet and vote to either accept or reject the hearing officer's report.

The Commission shall hear the evidence upon the specific charges as filed by the person preferring charges or imposing discipline. No material amendments or addition to the charges may be considered by the Commission once the charges have been filed.

The proceedings may be conducted informally yet in a manner which is compatible with the requirements of justice. The Commission need not be bound by formal rules of evidence or procedure. The Commission may make inquiry in the matter through oral testimony and records presented at the hearing, which is calculated to ascertain the rights of the parties and to justly carry out the provisions and spirit of the charter and these regulations. (Court room style)

The testimony taken at the hearing shall be under oath, administered by the Commission. The Commission shall have the power to subpoena and to require the attendance of witnesses and the production of pertinent records. The Commission may continue the hearing as long as is necessary to receive all relevant testimony and evidence.

#### **12.6 Ruling**

The Commission by majority vote may affirm, disaffirm, or modify the disciplinary action, and may award retroactive pay and benefits or other relief as appropriate. It shall report its findings and decisions to the Director of Human Resources and the employee's appointing authority. The

Director of Human Resources and the appointing authority shall have the decision of the Commission implemented, unless appealed and overturned by the courts.

In cases of removal or reduction in pay for disciplinary reasons, either the appointing authority or the employee may appeal from the decision of the Commission to the Court of Common Pleas of Ashland County.

### **12.7**    Resignation Before Final Action

The acceptance by an appointing authority of the resignation of an employee who has been served with a dismissal notice, and before final action of the Commission, will constitute a resignation in bad standing. Notice of such resignation shall be submitted immediately to the Commission. The charges shall be deemed withdrawn and the proceedings shall be dismissed by the Commission without judgment. The resignation shall be effective immediately, and may not be withdrawn.

## **RULE XIII.    ADMINISTRATION (O.R.C. 124.40)**

### **13.1**    Administration

The Commission shall enforce the Civil Service laws and regulations applicable to the City of Ashland. The Director of Human Resources shall be the administrative secretary of the Commission and may act on behalf of the Commission in administering the Civil Service laws and regulations, except where the authority is specifically reserved to the Commission. The Commission shall have the power to hear appeals regarding implementation of any Civil Service laws and regulations by the Director of Human Resources or the City.

### **13.2**    Civil Service Commission

The Commission shall consist of three (3) members appointed by the Mayor to serve terms of six (6) years. An appointment to fill an interim vacancy shall be for the unexpired term of the office. Members of the Commission shall not hold any other office in City government.

The Commission shall elect one of its members as Chairman, one as Vice-Chairman, and one as Secretary.

The Chairman shall preside over all meetings of the Commission, sign the minutes of all actions taken by the Commission, call such meetings as the Commission finds necessary to transact the business and affairs of the Commission in matters relating to the business or responsibility of the Commission. In the absence of the Chairman, the Vice-Chairman shall exercise the full authority and responsibility of the Chairman.

The Secretary shall keep the minutes of the Commission and keep all necessary files. The Secretary shall prepare and deliver notices, correspondence, and other communication authorized by the Commission.

### **13.3** Meetings

The Chairman may on his own initiative, and shall upon the request of the other two (2) members of the Commission, call a meeting of the Commission. Notice and conduct of such meetings shall comply with the Ohio Open Meeting Law (O.R.C. 121.22) as it is applicable to the Commission.

Two (2) members of the Commission shall constitute a quorum at any meeting of the Commission. The affirmative vote of at least two (2) members of the Commission is required to adopt any motion or resolution, or take any official action.

### **13.4** Suspension and Removal of Commission Members

The Mayor may at any time suspend or remove any Commission member for inefficiency, neglect of duty or malfeasance in office having first given to such member a copy of the charges setting forth the specific complaint. An opportunity shall be given each member to be publicly heard in person or by counsel in his own defense.

Any Commission member so removed may appeal to the Court of Common Pleas, providing such appeal is taken within ten (10) days from the decision of the Mayor.

### **13.5** Annual Inservice Training

The Civil Service Commission and the Mayor shall annually co-sponsor a mandatory in-service training for all elected officials, members of the Civil Service Commission and division directors to review Civil Service practices and address changes in current laws. The annual in-service shall be conducted by a resource person selected by the Commission and the Mayor.

## **RULE XIV. COMPLIANCE WITH CIVIL SERVICE LAWS AND RULES**

### **14.1** Compliance (O.R.C. 124.62)

Nothing in these rules shall be interpreted in such a way as to be in violation of the laws of the State of Ohio, or the Charter, or ordinances of the City of Ashland.

After a rule has been duly established by the Commission, according to Chapter 124 of the Ohio Revised Code, no person shall make an appointment to office or select a person for employment contrary to such rules or laws; or willfully refuse or neglect to comply with or to conform to such sections; or willfully violate any of such sections.

If any person is convicted of violating these rules or laws who holds any public office or place of public employment, such office or position shall be, by virtue of such convictions, rendered vacant.

Prosecutions for violations of such laws or the rules and regulations of the Commission shall be instituted by the Commission through the legal department of the City or through special counsel.

**14.2** Investigations (O.R.C. 124.56)

When the Commission has reason to believe that any officer, board member, commissioner or person having the power of appointment, layoff, suspension, or removal, has abused such power in violation of these rules and regulations or Chapter 124 of the Ohio Revised Code, the Commission shall make an investigation. The report of the Commission shall be made to the Mayor, who may remove such officer, board member, commissioner or person, provided an opportunity is given to be publicly heard in person or by counsel in his/her own defense.

**14.3** Political Activity Prohibited (O.R.C. 124.57)

No officer or employee in the classified service shall directly or indirectly, orally or by letter, solicit or receive or in any manner be involved with soliciting or receiving any assessment, subscription or contribution for any political party or candidate for municipal office. No officer or employee in the classified service shall be an officer in any political organization nor be a candidate for partisan political office.

**14.4** Certification of Payrolls

The Director of Human Resources is hereby authorized, on behalf of the Commission, to certify payrolls pursuant to 124.55 of the Ohio Revised Code. The signature of the Director of Human Resources shall certify that the persons named in such payroll have been appointed, promoted, reduced, suspended or laid off pursuant to the Civil Service laws and rules and regulations.

**RULE XV. AMENDMENT TO RULES**

**15.1** Notice of Amendments

The rules and regulations, or parts thereof, of the Civil Service Commission herein contained may be amended or repealed, or new rules adopted at any time by the Commission by a vote of two-thirds (2/3) of the Commission.

No final action to amend, repeal or supplement these rules shall be taken without giving at least seven (7) days notification to the public with an advertisement in a newspaper of general circulation in the City of Ashland, Ohio.

**15.2** Copies of Amendments

Copies of proposed amendments shall be available to any citizen upon request, and copies of the proposed amendments shall be furnished to each appointing authority, and to all City divisions. Notices of such amendments shall also be posted in a conspicuous place in the Municipal Building, and other places throughout the City.

**RULE XVI. SEVERABILITY**

**16.1** Effect of Invalidity in Part

If any part or sub-part, sentence, clause or phrase of these rules, is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions. The Commission hereby declares that it would have passed each part, sub-part, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sub-parts, sentences, clauses or phrases be declared invalid.