# CIVIL SERVICE COMMISSION

# OF

# CITY OF SHELBY, OHIO

# RULES AND REGULATIONS



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## PREAMBLE

The following Rules and Regulations are adopted in accordance with the authority conferred upon the Municipal Civil Service Commission of the City of Shelby, Ohio, under the authority of the ordinances of the City of Shelby, Ohio, Chapter 124 and other provisions of the Ohio Revised Code, and Articles XV and XVIII and other provisions of the Constitution of the State of Ohio.

Inquiries regarding Civil Service matters or rules should be addressed to the Civil Service Commission, City of Shelby, 43 West Main Street, Shelby, Ohio 44875.

## RULE ONE APPLICABILITY OF RULES

### 1.01 Scope of the Rules and Jurisdiction of the Commission

A. These rules shall be applicable to all civil service matters, except to the extent these rules have been superseded by collective bargaining agreements between the City of Shelby, Ohio, or the Shelby City School District and a public employee collective bargaining representative.

B. No person shall be appointed, removed, transferred, laid off, suspended, fined, reinstated, promoted, or reduced as an officer or employee in the Civil Service of the City of Shelby, the Shelby Health District, or the Shelby City School District in any manner or by any means other than those prescribed in these rules, except as provided in "A" above.

### 1.02 Construction

These rules should be construed so as to carry out their purposes as determined from both the literal reading of the rules and their context. The rules should be construed and applied in a manner that is consistent with the laws of the State of Ohio, except to the extent that the letter or context of the City Charter or ordinances indicates that the City intended to supersede, preempt, or otherwise override state law through a valid exercise of Home Rule. The Rules should not be construed so as to limit the City's power to exercise Home Rule, except to the extent that the City has limited itself in the City Charter. Nor should the rules be construed in a way that limits the Civil Service Commission's power to interpret and apply the rules within the scope of its lawful authority.

A charter provision will prevail over any conflicting ordinance.

An ordinance will prevail over any conflicting rule. Any collective bargaining agreement that provides for binding arbitration of grievances and that conflicts with the Charter, or ordinance, or these rules will prevail over the Charter, ordinance, or rule, pursuant to Chapter 4117 of the Ohio Revised Code, unless the subject matter is not a proper subject for collective bargaining. Persons convicted of certain felonies under Ohio Revised Code section 124.34 lose certain rights as provided in that section, notwithstanding any collective bargaining agreement.

For the convenience of the Commission and the public, certain of these rules indicate some of the instances where the City has elected to supersede state law.

The term "ordinance" in these rules is meant to include formal ordinances, resolutions, or any other actions of Council that are sufficient to carry out exercises of Home Rule or other powers of

Council. References to "rules" and "regulations" are interchangeable, unless indicated otherwise.

## 1.03 Adoption, Amendment, Rescission

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

B. Public notice as to the adoption, amendment, or rescission of any rule of the Civil Service Commission must be given to the local news media at least thirty (30) days prior to the date set for hearing and consideration of the rule.

C. The public notice must contain a statement of the Commission's intention to alter or adopt a rule, and a statement as to the subject matter of the rule to be affected. In addition, the notice must contain the date, time, and place set for the consideration of the rule change.

D. A copy of the full text of any proposed rule or rule change shall be submitted to the Mayor, the Superintendent of the School District, and the Commissioner of the Health District at least ten (10) days prior to the date set for consideration.

E. Civil Service Commission rules, once adopted by a majority vote and entered into the minutes, will be submitted to City Council for review. Copies of the rules or rule changes, together with the minutes of the Civil Service Commission adopting the change and a copy of any ordinance necessary to enact the change, will be kept by the designee of the Commission and made available to any person upon request.

## 1.04 New Rules

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

## 1.05 Savings Clause

If any section or part of these rules or any amendment is invalidated by operation of law or by order of a court of competent jurisdiction, or compliance with or enforcement of any chapter or section is restrained by a court, the remainder of these rules and any amendments shall not be affected and shall remain in full force and effect, unless the context of the rules as a whole indicates that section should be invalidated as well to conform with the Commission's intent.

## RULE TWO DEFINITIONS

The terms herein specified, and as used in the Rules and Regulations of the City of Shelby, Ohio Municipal Civil Service Commission, or in the administration of the Civil Service Laws, shall be defined as follows:

A. "Allocation" means the determination by the Commission of the class to which a position belongs.

B. "Applicant" means a person requesting consideration for examination or employment in a class in the classified service of the City.

C. "Appointing Authority" means the officer, commission, board, or body having the power of appointment or removal from positions in the classified service and shall include but not be limited to the following:

1. Mayor
2. Board of Health
3. Board of Education

D. "Available Vacancy" means an existing funded position not currently filled by an incumbent which the appointing authority desires to fill. The existence of vacant positions on an appointing authority's table of organization shall not mean that a position is an available vacancy.

E. "Certification" means the act of certifying and supplying names from an official eligible list (and recording thereon) to the appointing authority for purposes of employment selection or layoff.

F. "Certified Eligible List" means an official list certified and issued to an appointing authority of individuals available for employment from an eligible list.

G. "Civil Service" includes all offices and positions of trust or employment in the service of the City of Shelby, Ohio, and the Shelby, Ohio, City School District, and the City of Shelby, Ohio Health District.

H. "Class" is used to designate one or more positions sufficiently distinct from all other positions in duties, responsibilities, and qualifications required to warrant a separate title.

I. "Classification" means a class as provided in subsection (H) hereof or the process by which the proper title and level for each position is determined.

J. "Classified Service" means those persons in the employ of the City of Shelby, Ohio, who are now in competitive civil service status due to their job positions pertinent to the local situation. All other employees and positions shall be "unclassified." Classified status

may be determined as provided for in Ohio Revised Code section 124.11(A) or (C) or other Revised Code provisions. In any situation in which the status of an employee as being either classified or unclassified is in issue, the burden shall be upon the Appointing Authority to establish such status by a preponderance of evidence.

K. "Clerk" means the Clerk of the Civil Service Commission of the City of Shelby, Ohio.

L. "Commission" means the Municipal Civil Service Commission of the City of Shelby, Ohio.

M. "Competitive Examination" means an examination given for the purpose of determining the relative rank of those qualifying and establishing an eligible list arranged in the order of placement as a result of an examination procedure and these rules.

N. "Day" means calendar days unless otherwise specified.

O. "Demotion" means, except as otherwise provided herein or in Ohio Revised Code Chapter 124, the movement of an employee from a position in one class to a position in another class having a lower maximum salary rate.

P. "Eligible" means an applicant for appointment or promotion to a classification who has passed an examination and met other requirements for the classification, and who is willing to accept appointment.

Q. "Eligible List" means a list of names of persons found qualified either through examinations or reemployment procedure for the purpose of filling vacancies in the classified service for a particular job class.

R. "Employee" means any person holding a position subject to appointment, removal, promotion, or reduction by an Appointing Authority.

S. "Examination" means any exercise or procedure which serves to provide an evaluation of an individual's qualifications or fitness for a particular position.

T. "Exempt Appointment" means an appointment to a position which is not subject to an examination or civil service tenure.

U. "He" is a masculine pronoun which, whenever it or its derivatives are mentioned, shall include the feminine pronoun "she" and its derivatives.

V. Lateral Entry means the selection of a new hire candidate for police officer or firefighter who has served as a police officer or firefighter in another community and has met the entry requirements.

W. "Municipal Service" shall include those positions in the Classified Service of the City, the City Health District, and the City School District.

X. "Non-competitive Examination" means an open examination, given to determine those qualified to fill appointments to positions requiring peculiar and exceptional qualifications of a scientific, professional, educational, or managerial character or positions where it is impractical to develop and administer competitive examinations or for lateral entry positions for police and firefighters as permitted by the City of Shelby Charter.

Y. "Notice" means the mailing by regular U.S. mail addressed to the latest address provided in writing to the Commission by the person to be notified or by actual delivery to the person or entity of any notice required under these rules.

Z. "Open Competitive" or "Competitive Entrance" examination means a competitive examination open to all persons, whether employed by the City or not, who meet the qualifications and comply with the prescribed requirements for admission thereto.

AA. "Permanent Employee" means any employee in the classified service holding a position that requires working a regular schedule of twenty-six (26) bi-weekly pay periods, or any other regular schedule of comparable consecutive pay periods, which is not limited to a specific season or duration.

BB. "Position," when used by itself, shall refer to any specified office, employment, or job, calling for the performance of certain duties, either full time or part time, and for the exercise of certain responsibilities by one individual.

CC. "Position Classification" means the arrangement of positions into classes including grades. Positions shall be classified in accordance with the duties and responsibilities of the position.

DD. "Promotion" means the act of placing an employee in a position, the classification for which carries a higher salary range or rate than that of the position previously held by the employee.

EE. "Promotional Competitive Examination" means a competitive examination which is open only to current employees who meet the qualification and eligibility requirements set forth.

FF. "Rules" means the Rules and Regulations of the Municipal Civil Service Commission of the City of Shelby, Ohio.

GG. "School District" means the Shelby City School District.

HH. "Specification" means a general description of a job classification specifying or giving examples of the kinds of tasks expected to be performed by employees holding positions allocated to that classification; which may include classification title and number, a statement of job functions, a grouping of task statements by job duties (ranked by importance), approximate percentages of total job time required for the performance of each duty, worker characteristics or behaviors required for successful completion of all tasks within each duty, and minimum qualifications for competition for employment in the classification.

II. "Status" means the nature or type of employment held by a City employee under the classified service of the City.

JJ. "Temporary Employee" means a type of employee filling a duly authorized position without competition for no longer than one hundred twenty (120) days.

KK. "Unclassified Service" means all offices and positions that are exempt from civil service examination and which provide no civil service tenure under the law. Unclassified status may be determined as provided for in Ohio Revised Code section 124.11(A) or (C) or other Revised Code provisions, or by local ordinance, and the rights of the affected employee are determined accordingly.

LL. "Weights" means the relative importance of the subjects or parts of an examination as expressed in percentages, proportions or ratios as determined by the Commission.

## RULE THREE GENERAL PROVISIONS

### 3.01 Structure of the Commission

The Mayor shall appoint three (3) persons, one for a term of two (2) years, one for a term of four (4) years, and one for a term of six (6) years, who shall constitute the Civil Service Commission of the City of Shelby, Ohio, and the Shelby City School District. Each alternate year thereafter, the Mayor shall appoint one (1) person as successor of the member whose term expires to serve six (6) years. A vacancy shall be filled by the Mayor for the unexpired term. At the time of appointment, not more than two (2) members of the Civil Service Commission shall be adherent to the same political party.

### 3.02 Duties of the Commission

The Civil Service Commission shall:

A. Prescribe, amend, and enforce rules not inconsistent with Chapter 124 of the Ohio Revised Code (except to the extent the City elects to exercise home rule where the City is authorized to do so) for the classification of positions in the civil service of the City, the Shelby City School District, and the Shelby Health District, for examinations therefore and resignations therefrom; for appointments, promotions, removals, transfers, layoffs, suspensions, reductions, and reinstatements therein; and for standardizing positions and maintaining efficiency therein.

B. Prepare, conduct, and grade or assign a person to prepare, conduct, and grade all examinations for positions in the classified service.

C. Prepare and maintain eligible lists containing the names, scores, and rankings of all persons qualified for positions in the classified service.

D. Recommend to the Mayor of the City an individual to be appointed as the Clerk of the Commission to assist and serve the Commission in its exercise of its duties, powers, functions, and responsibilities.

E. Hear appeals, as provided by these rules, of employees in the classified service from final decisions of the Appointing Authority of the employee.

F. Maintain a journal which shall be open to the public for inspection, in which shall be kept a record of all of the proceedings of the Commission and of the vote of each of its members upon every action taken thereby.

G. Subpoena and require the attendance and testimony of witnesses and/or the production of books, papers, records, and other documentary evidence pertinent to any matter which the Commission has the authority to investigate, into which it has the authority to inquire, or which it has the authority to hear.

H. Annually prepare and submit to the Mayor a budget and request for appropriations for the next fiscal year of the City, which the Commission deems appropriate and sufficient to defray the costs and expenses of the operation thereof.

I. Make reports from time to time, as the City Commission and/or Mayor require, of the manner in which the law and the rules and regulations of the Commission have been and are being administered in the City, the Shelby City School District, and the Shelby Health District.

J. Prepare and file with the Clerk of the City Council an annual report as to the operation and activities of the Commission.

K. Keep and maintain a compilation and listing of all of the current and existing authorized positions within the Civil Service of the City, the Shelby City School District, and the Shelby Health District; retain on file a current description as to the duties and responsibilities of the same, and retain on file documents and records related to job and employment actions as to each such position.

L. Exercise all other powers and perform all other duties with respect to the civil service of the City, the Shelby City School District, and the Shelby Health District, as prescribed in Chapter 124 of the Ohio Revised Code and conferred upon the Director of Administrative Services and the State Personnel Board of Review of the State of Ohio with respect to the civil service of the State of Ohio.

**3.03 Officers and Agents of the Commission**

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

1. to call such meetings of the Commission as are necessary to transact the business and affairs of the Commission;

2. to sign the minutes of all action taken by the Commission;

3. to preside at all meetings of the Commission;

4. to ensure that the Annual Report is assembled and transmitted in a timely manner.

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

B. The Commission shall recommend to the Mayor a suitable person to act as Clerk to the Commission and perform the following duties:

1. attend all meetings of the Commission and keep the minutes thereof;

2. keep in the form of minutes a record of the official actions of the Commission;

3. be available in the municipal administration building during regular business hours for the purpose of receiving calls, accepting service of filings, and providing access to Commission records;

4. process all applications;

5. accurately and properly maintain all of the records of the Commission;

6. keep all files in proper order;

7. prepare and deliver, or cause to be delivered, notices and other communications ordered by the Commission;

8. properly furnish appointing authorities with eligibility lists;

9. maintain an official roster and service lists;

10. handle such correspondence as the Commission shall determine, including the preparation of the budget and annual report;

11. on authorization from the Chair, sign all warrants or orders for the payment of money on behalf of the Commission;

12. make available to the public those documents deemed to be public records under the terms of Ohio Revised Code section 149.43;

13. perform other duties as assigned by the Commission.

In the absence of the Clerk, the Commission may recommend to the Mayor another employee of the City, or it may designate a member of the Commission or another person to act as the temporary interim Clerk of the Commission in the stead of the Clerk.

C. The Civil Service Commission may designate special examiners or contract for the preparation or administration of examinations.

**3.04 Removal**

In the event that a member of the Civil Service Commission violates or fails to perform the duties imposed by law, or willfully or through culpable negligence violates the law by failure to perform duties as a member of said Commission, the Mayor shall forthwith remove the member.

In all cases of removal, an appeal may be had to the Common Pleas Court of Richland County, Ohio, to determine the sufficiency of the cause for removal. The appeal shall be taken within ten (10) days of the action of removal. Should the court disaffirm the judgment of the Mayor, the member shall be reinstated to his former position on the Civil Service Commission. The Mayor may at any time remove any member of the Civil Service Commission for inefficiency, neglect of duty, or malfeasance in office, having first given the member a copy of the charges against him, and an opportunity to be publicly heard in person or by counsel in his defense.

**3.05 Meetings of the Commission**

A. The first annual meeting of the Civil Service Commission shall be its organizational meeting. The Commission shall hold such other meetings as may be called by the Chair of the Commission, or by two (2) members thereof.

B. All meetings of the Civil Service Commission are open to the public except as set forth in Ohio Revised Code section 121.22 and this rule.

C. General minutes shall be taken at all Civil Service Commission meetings and shall be open to public inspection.

D. The Chair of the Commission may, on his own initiative, and shall, upon the request of the other two (2) members of the Commission, call a special meeting of the Commission to be held not later than ten (10) days from the date of notice of such meeting. Two (2) members of the Commission shall constitute a quorum at any meeting of the Commission, and it shall require the affirmative vote of at least two (2) members to adopt any motion or resolution.

E. Notice of any meeting of the Civil Service Commission must be given to the local news media not less than twenty-four (24) hours in advance of the meeting.

F. In the event of an emergency, the Chair, the members calling the meeting, or a designee must immediately notify the local news media concerning the time, place, and purpose of the meeting.

G. An executive session may be held only after a majority of the members, by roll call vote, have approved such action. Such executive session may be convened to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a municipal employee, unless such employee requests a public hearing.

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

1. roll call;
2. disposition of unapproved minutes;
3. reports;
4. unfinished business;

5. new business;
6. adjournment.

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

A. Public notice as to the adoption, amendment, or rescission of any rule of the Civil Service Commission must be given to the local news media at least thirty (30) days prior to the date set for hearing and consideration of the rule.

B. The public notice must contain a statement of the Commission's intention to alter or adopt a rule, and a statement as to the subject matter of the rule to be affected. In addition, the notice must contain the date, time, and place set for the consideration of the rule change.

C. A copy of the full text of any proposed rule or rule change shall be submitted to the Mayor, the Superintendent of the School District, and the Commissioner of the Health District at least ten (10) days prior to the date set for consideration.

D. Civil Service Commission rules, once adopted by a majority vote and entered into the minutes, will be submitted to City Council for review. Copies of the rules or rule changes, together with the minutes of the Civil Service Commission adopting the change and a copy of any ordinance required to enact the change, will be kept by the designee of the Commission and made available to any person upon request.

### 3.07 Service Lists

These separate rosters, known as “service lists” of the City, the School District of the City of Shelby, Ohio, and the Shelby Health District contain the name of every person employed by the same; the date of his appointment; the title of his position; the dates of promotions, if any; the dates of suspension, if any; the date of termination of employment or separation therefrom, if any, and the cause for the same; the designation of said employee and the position in which he serves as being in the classified or the unclassified service of the City, the School District, or the Health District; and, in the case of an employee and/or position which is designated as being in the unclassified service, an indication of reason and justification for such designation shall be created and approved by the Mayor, the Board of Education of the City of Shelby, and the Commissioner of the Shelby Health District. Such lists shall be filed with the Civil Service Commission and kept by the Clerk, and the lists shall be updated and revised periodically by written notice from the respective appointing authorities.

## RULE FOUR CLASSIFICATION

### 4.01 Classification Plan

A. The Civil Service Commission shall establish and may modify or repeal, by rule, a job classification plan for all classified positions, officers, and employment situations in the employ of the City of Shelby, the Shelby School District, and the Shelby Health District.

B. Positions in the Civil Service of the City, the City School District, and the Health District shall be classified in accordance with the classification plan, which shall provide that any and all positions whose duties, responsibilities, and necessary qualifications are sufficiently alike as to so warrant, shall be allocated to the same class with a title which shall be descriptive of the duties performed, and which will allow for the assignment of pay ranges with equity.

C. A class specification shall be prepared for each job classification setting forth a class title, salary range, typical duties and responsibilities, and the necessary qualifications, as specified in Rule 4.01(A).

D. Where particular licenses or attributes, such as insurability, are essential characteristics or functions of a position, the class series specification may be amended to so reflect. Such amendments may be requested by the Appointing Authority or may be made independently by the Civil Service Commission, and must be reflected on the minutes of the Commission.

### 4.02 Reclassification

A. Whenever a new position is established or the duties of a position are so changed that the statement of duties and typical tasks of the class to which it was originally allocated no longer applies, the Appointing Authority shall report such fact to the Commission and transmit a full statement of the circumstances and description of the duties. The Commission shall thereupon, after investigation, determine the proper classification of such position. The Commission shall from time to time make an investigation of all positions in the service to determine whether such positions are allocated to the proper classifications. Any employee or his authorized representative, or any Appointing Authority desiring to submit facts for consideration of the Commission, shall be afforded reasonable opportunity to do so. When the Commission finds improper classifications of positions exist, the Commission may reallocate any position to the appropriate class as is necessary to provide an equitable, just, and proper classification.

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

### 4.03 Notification of Employees

Whenever the classification title of a position is changed other than by promotion or demotion, the Commission shall notify in writing any employee affected by the change as well as the employee's Appointing Authority.

### 4.04 Specification Amendments

Where particular licenses or attributes such as insurability are essential characteristics or functions of a position, the class series specification may be amended to so reflect. Such amendments may be requested by the Appointing Authority or may be made independently by the Civil Service Commission, and must be reflected on the minutes of the Commission.

## RULE FIVE CLASSIFIED AND UNCLASSIFIED SERVICE

### 5.01 Classified Service

The classified service includes the competitive classified civil service of the City of Shelby, of the School District of the City of Shelby, Ohio, and of the Shelby Health District. No person shall be admitted to the Classified Service unless said person has fully and completely complied with all the requirements of these Rules, except as otherwise provided under the laws of the State of Ohio.

### 5.02 Division of the Civil Service, Classified/Unclassified

The civil service of the City of Shelby, Ohio, of the Shelby City School District, and of the Shelby Health District shall be divided into the classified service and the unclassified service:

A. Unclassified Service

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

1. All officers elected by popular vote, or persons appointed to fill vacancies in such offices.

2. The members of all boards and commissions, and the heads of departments appointed by the Mayor of the City of Shelby, Ohio, the Superintendent of the Shelby City Schools, and the Commissioner of the Shelby City Health District. This Rule does not exempt the Chiefs of the Divisions of Police and Fire of the City of Shelby, Ohio.

3. Employees of the City Commission of the City of Shelby, Ohio, who are engaged in legislative duties.

4. All business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and such other employees of the Shelby City School District and the Shelby Health District who are engaged in educational or research duties connected with the said public school system as determined by the Board of Education of said District.

5. The library staff of any library of the Shelby City School District.

6. Four (4) clerical and administrative support employees for the City Council of the City of Shelby, Ohio, the Board of Education of the Shelby City School District, and the Shelby Health District.

7. Four (4) clerical and administrative support employees for each of the principal appointive executive officers, boards, or commissions of the City of Shelby, Ohio, the Shelby City School District, and the Shelby Health District authorized to appoint the same, except the Civil Service Commission of the City of Shelby, Ohio.

8. Bailiffs, constables, official stenographers, and commissioners of the Municipal Court of Shelby, Ohio, and such officers and employees of such Court for which the Civil Service Commission finds it impracticable to determine fitness by competitive examination.

9. Assistants to the Law Director of the City of Shelby, Ohio.

10. Deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals.

11. Superintendent of Municipal Light Plant.

12. Superintendent of Electric Distribution and Telecommunications.

13. Superintendent of Streets.

14. Building and Zoning Inspector.

15. Superintendent of Wastewater Treatment.

16. City Engineer.

17. Superintendent of Water.

18. Director of Utilities.

19. Employees who receive external or temporary appointments.

B. Classified Service

The classified service shall comprise all persons in the employ of the City of Shelby, Ohio, the Shelby City School District, and the Shelby Health District not specifically included in the unclassified service. The classified service shall consist of two (2) classes, which shall be designated as the competitive class, and the unskilled labor class:

1. The competitive class shall include all positions and employments in the service of the City of Shelby, Ohio, the Shelby City School District, and the Shelby Health District for which it is practicable to determine the merit and fitness of

applicants by competitive examinations. Appointments shall be made to, or employment may be given in, all positions in the competitive class which are not filled by promotion, reinstatement, transfer, or reduction, as provided by these Rules, by appointment from those certified to the appointing officer in accordance with these Rules.

2. The unskilled labor class shall include ordinary unskilled laborers. Vacancies in the labor class shall be filled by appointment from lists of applicants registered by the Civil Service Commission. The Civil Service Commission shall require applicants for registration in the labor class to furnish such evidence or take such tests as the Civil Service Commission considers proper with respect to residence, physical capacity to perform the essential functions of the position applied for, with or without reasonable accommodations, honesty, capacity, industry, and experience in the work or employment for which he applies. Laborers who fulfill the requirements shall be placed on the eligible list for the kind of labor or employment sought, and preference shall be given in employment in accordance with the rating received from such evidence or in such tests. Upon the request of an appointing officer, stating the kind of labor needed, the pay, and probable length of employment and the number of the employed, the Civil Service Commission shall certify from the highest on the list double the number to be employed; from this number the appointing officer shall appoint the number actually needed for the particular work. If more than one applicant receives the same rating, priority in time of application shall determine the order in which their names shall be certified for appointment.

C. A classification specification shall be prepared for each job classification setting forth a class title, salary range, typical duties and responsibilities, and the necessary qualifications. This classification specification shall set forth the factors and conditions that are essential characteristics or functions of the class, and also those factors or conditions which differentiate it from other classes.

## RULE SIX APPLICATIONS

### 6.01 Generally

All applications, whether for employment or for examination, must be made upon forms prescribed by the Civil Service Commission. All application forms must be completed in their entirety and printed legibly in ink (by the person unless such person is handicapped in which case "reasonable accommodation" will be made) and submitted to the Civil Service Commission in a timely manner.

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

## 6.02 Forms

At the first meeting of the Civil Service Commission following January 1 of each year, the Commission will review the prescribed form, or forms, make any changes that are deemed necessary, and by majority vote, approve the form or forms to be used for the next ensuing year.

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

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

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

## 6.03 Age Restrictions: Police and Fire

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

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

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

B. Fire Department Minimum Age for Application

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

### 6.04 Fitness for Service

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

B. Applicants to whom conditional offers of employment in positions within the Division of Police and the Division of Fire of the City of Shelby shall be required to undergo psychological evaluations, medical examinations, and drug testing administered by appropriate, licensed medical professionals selected and designated by the Commission, and to provide information as to their physical and psychological health which is relevant to their ability to perform the essential functions of the position in relation to which a conditional offer of employment has been tendered, with or without reasonable accommodation. Results of physical and psychological health tests will be provided to the Police and Firemen's Disability and Pension Fund as required. The Civil Service Commission may order physical agility tests where applicable.

C. The Commission may require that applicants to whom conditional offers of employment in positions within other divisions or departments have been tendered undergo such medical examination or testing, or provide such information, on the condition that such requirements are uniform as to all positions within an employment classification.

### 6.05 Promotional Restrictions: Police and Fire

A. With the exception of the positions of Chief of Police and Fire Chief, vacancies above the rank of regular Firefighter in the Fire Department, and above the rank of Police Officer in the Police Department, shall be filled by promotion from among persons holding the next immediately lower rank.

B. Whenever a vacancy occurs in the promoted ranks of the Fire Department, no person shall be eligible to take the promotional examination unless he has served at least forty-eight (48) months in the next immediately lower rank, not including a probationary period.

C. Whenever a vacancy occurs in the promoted ranks of the Police Department, no person shall be eligible to take the promotional examination unless he or she has served at least twelve (12) months in the rank of police officer. In the event a vacancy occurs in the next higher promoted ranks, no person shall be eligible to take a promotional examination unless he or she has served at least twelve (12) months in the next immediately lower rank.

D. If, even by waiving the time-in-rank requirement for non-probationary employees there are not two (2) people eligible to take the promotional examination, the Civil Service Commission shall open the test to probationary employees in that rank.

E. If, even by opening the test to probationary employees there are not two (2) people eligible to take the promotional examination, the Civil Service Commission shall allow the nonprobationary persons in the then next lower rank to compete with those persons in the rank lower than the position to be filled.

F. The above process shall be repeated in a downward progression until such time as there are at least two (2) candidates to take the competitive examination.

G. If, after exhausting all ranks two (2) eligible test takers cannot be located, then a temporary appointment may be made.

**6.06 Character and Fitness**

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

**6.07 Education**

Every applicant shall have and shall be able to demonstrate that he has any education and training which is a prerequisite and requirement of the position for which he makes application as imposed by federal or state law, and shall provide the Civil Service Commission with reasonable and adequate proof thereof.

**6.08 Licenses and Certificates**

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

B. Participants in a Police Department sponsored or ran Police Academy Program that leads to certification as Entry-Level Patrolman position shall be deemed to have met the requirements of Rule 6.08 if they otherwise meet the Appointing Authority's requirements for the position.

Satisfaction of Rule 6.08 does not relieve applicants of any other requirement under these Rules.

C. Out-of-State Applicants who can demonstrate they hold a substantially equivalent certification from another state and are unable to obtain certification in Ohio until they receive an appointment, who otherwise meet the requirements of these Rules shall be deemed to satisfy Rule 6.08.

### 6.09 Disqualification of Applicants

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

### 6.10 Notice of Acceptance or Rejection of Application

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

### 6.11 False Statements

Fraudulent conduct or false statements by the applicant, or by others with his connivance, in any application or examination shall be deemed cause for exclusion of an applicant from any examination, or for removal of his name from an eligible list, or for discharge from service after appointment or employment, provided that the name of no person shall be removed from an eligible list, and no person shall be dismissed from service under this provision without an

opportunity to be heard by the Civil Service Commission. Where an applicant is excluded from an examination, he shall be heard by the Clerk of the Civil Service Commission.

### 6.12 EEO Applicant Flow Information

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

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

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

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

### 6.13 Application for Examination

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

Examinations shall be open and competitive and shall be comprised of two (2) types:

A. Original appointment examinations

B. Promotional Examinations

### 6.14 Separate Examinations for Police and Fire

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

In both the Police Department and the Fire Department, different tests will be given for original and promotional appointments. No competitive examinations will be required for lateral entry police officers and fire fighters as long as the minimum qualifications for lateral entry are met.

## RULE SEVEN EXAMINATIONS

### 7.01 General

A. All applicants for positions in the classified civil service shall be subject to examination, except for applicants for positions in professional or certified service, and as to all limitations set forth in these rules as to residence, education, license, certification, habit and moral character, and to the requirement that each applicant be able, with or without reasonable accommodation, to perform the essential functions of the position for which he has made application.

B. Examinations may consist of one test or of more than one test in combination. Tests may be written, oral, demonstration of ability to perform essential functions, or an evaluation of training and experience, and may consist of structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and/or any other acceptable testing method. Tests shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the person for which appointment is sought. Where minimum or maximum requirements are established for any examination, the same shall be specified in the examination announcement.

### 7.02 Types of Examinations

There shall be two (2) types of examinations administered by the Civil Service commission in accordance with these rules, to wit: examinations for original appointments and examinations for promotion. Examinations for original appointments shall be open to all individuals who otherwise qualify for appointment to or employment in a position under these rules. Examination for promotion shall be limited to members of the classified civil service who meet the requirements for promotion to a position under these rules.

### 7.03 Separate Examinations

Separate examinations shall be given and separate eligible lists shall be maintained by the Civil Service Commission as to the respective appointing authorities within the jurisdiction of the Civil Service Commission, and as to separate positions and classifications within the service of the same. No person may be transferred from one list to the other, but a single test or combination of tests may be utilized to examine and evaluate applicants for similar positions or classifications in the service of the two appointing authorities. Appointments and promotions shall be effected only from the separate eligible lists which are applicable. Transfers of personnel between the Division of Fire and the Division of Police of the City are prohibited.

### 7.04 Examinations; Temporary Appointments

A. Examinations for appointments must be competitive, and no such examination will be administered unless there are at least two (2) applicants.

B. In the event that only one (1) person applies for an original appointment examination, a temporary appointment may be made, provided that the appointee otherwise meets the minimum qualifications.

C. Any temporary employee who remains in temporary status in the same classification or classification series for a period of six (6) months of continuous service or the completion of his probationary period, whichever is longer, during which period no competitive examination is held, shall become a certified appointee in the classified service at the conclusion of such period.

**7.05 Examination Notices and Sites**

A. Examinations for original or promotional appointments shall be held at such times and in such places as the Civil Service Commission deems appropriate, and shall be administered in accordance with the applicable sections of Ohio Revised Code Chapter 124, any applicable exercise of home rule, and these regulations.

B. Printed public notice of each examination for original appointment in the classified service shall be given through the local newspapers and shall be posted in conspicuous places in the City office or school buildings at least two (2) weeks prior to the last date for filing application, and shall include the time, place, and general scope of the competitive examination. In addition, the Commission may cause the notice to be given or posted in such other places as it may deem advisable.

C. Examination for original appointment to positions that utilize a rolling application and testing window shall be noticed as required by Rule B above at least once during the testing window, at least two weeks prior to the last date for filing application for that given window. Instead of the time and place of the examination, such notice shall specify that the application window and test are rolling deadlines and that notice of the next window closing will be posted at least two weeks prior to the closing on the Application/Testing Website. The notice need not include the window closing date. The Commission may cause the notice to be given or posted in such other places as it may deem advisable.

D. Notice of promotional examinations, except for promotional examinations for positions in the Fire Department or Police Department, shall be posted in conspicuous places in each department in which employees would be interested and eligible to compete for such promotion. Such notices shall be posted at least two (2) weeks prior to the last date for filing application, and shall include the time, place, and general scope of the competitive examination.

E. The notice of the holding of a promotional examination for a position or positions in the Fire Department or Police Department shall, unless waived by all persons eligible to participate, be published not less than thirty (30) days prior to the examination and shall contain a description of the source material from which the examination questions are prepared. Failure to comply with this requirement shall make void the pursuant

examination. This paragraph does not prohibit the use of questions based on experience in the fire service within the Fire Department.

F. Notices of all examinations for original appointments in the classified service may also be distributed to such persons or organizations as the Commission may deem to be interested in the positions to be filled.

**7.06 Scope of Examinations: Subjects/Study Materials**

Examinations shall be practical in character and shall relate directly to those matters which will fairly test the relative capability of the person being examined to discharge the particular duties of the position for which appointment is sought. Examinations may consist of structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and/or any other acceptable testing method.

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

Study materials, when reasonably available, shall be placed on closed reserve at the Marvin Memorial Public Library. Such materials may then be signed out for two (2) hour periods. The materials may not be removed from the library and will not circulate overnight.

The Commission provides these materials as a courtesy and not as a matter of right and assumes no responsibility for lost, stolen, misplaced, or unavailable study materials.

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

A. In relation to examinations for positions within the Division of Police and the Division of Fire of the City, examinations for original appointments may include written testing, oral testing, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and/or any other acceptable testing method.

B. No applicant shall be tested orally or participate in the assessment center unless he has completed the applicable written test, and, without consideration of any credits provided for by these rules, achieved the minimum passing score which has been predetermined by the Commission.

C. If oral examinations of qualified applicants are given, they shall be prepared, conducted, and graded by an Interviewing Board designated by the Civil Service Commission.

D. Lateral applicants for positions within the Division of Police shall take the original appointment examination applicable to said position and complete the personal history questionnaire along with lateral application materials. Lateral applicants may submit the

result of a previously administered NTN examination no longer than one year expired in lieu of completing a new examination.

**7.08 Limitation on Original Appointments: Police and Fire**

A. Positions above the rank of Police Officer in the Police Department or regular Firefighter in the Fire Department may not be filled by original appointment.

**7.09 Medical, Physical, Psychological, or Drug Testing**

A. General:

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

B. Controlled Substances:

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

C. By Whom Conducted:

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

D. Results Confidential:

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

E. Reasonable Accommodation:

Any applicant or candidate who feels that he has been adversely affected by the physical element may request that a “reasonable accommodation” be investigated by the Appointing Authority.

Requests for such accommodation must be filed as soon as reasonably possible, must be in writing, and must outline the accommodation requested. Such requests must be filed with the Commission and with the Appointing Authority.

The Commission will then schedule an informal fact finding meeting to discuss the issue of accommodation and will release its finding within five (5) working days of the conclusion of the informal fact finding. Such meetings will be held in executive session.

**7.10 Admission of Applicants to Examination**

A. No applicant shall be admitted to any assembled examination more than thirty (30) minutes after the advertised time of beginning such examination, nor after any applicant competing in any such examination has completed his work and left the examination room, whichever shall occur earlier, except by special permission of the person in charge, who, in his discretion, may admit the applicant conditionally, subject to the final approval or disapproval of such admission by the Commission.

B. Any applicant admitted to an assembled examination after its advertised time of beginning must complete the examination at the advertised ending time, and shall receive no extension of time, except as set forth in section 7.11, infra.

### 7.11 Identity of Entrance Examiners Concealed

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

### 7.12 Extension of Time in Examination

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

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

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

### 7.13 Visitors at Examinations

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

### 7.14 Postponement or Cancellation of Examination

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

### 7.15 Waiver

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

### 7.16 Promotional Examinations Generally

A. Vacancies in positions in the classified service shall be filled insofar as practicable by promotions. All examinations shall be competitive and may consist of structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and/or any other acceptable testing method and shall relate to those matters

which test the ability of the person being examined to discharge the particular duties of the position sought.

B. The identity of all examination applicants shall be concealed by the use of an identification number which shall be used on all examination papers. This identification number shall be used from the beginning of the examination until all the examination papers have been rated. Any papers bearing the name of the applicant, or any other identification mark, shall be rejected and the applicant so notified.

### 7.17 Promotional Examinations: Police and Fire

A. Promotional examinations for positions within the Division of Police and Fire shall relate to those matters which test the ability of the person examined to discharge the particular duties of the position sought, and may be in writing or other forms, provided, however, that in examinations for positions requiring the operation of machines or equipment, practical demonstration tests of the operation of such machines or equipment may be part of the examination, so long as said demonstrations and tests afford consideration of reasonable accommodations which may be necessary for disabled persons to permit them to perform the essential functions of the position to which appointment is sought.

B. The public notice of a holding of a promotional examination for a position or positions in the Division of Police and Fire shall, unless waived by all persons eligible to participate, be published not less than thirty (30) days prior to the examination, and shall contain a description of the source of the material from which any written examination questions are prepared. Such source material shall be readily accessible to the examinees. Failure to comply with this requirement shall render void the pursuant examination. This paragraph shall not prohibit the use of questions having answers based upon experience in the fire service within the Division of Police and Fire of the City of Shelby, Ohio.

C. Examinations for promotion in the Police Department and Fire Department may consist of structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and/or any other acceptable testing method.

## RULE EIGHT GRADING, ADDITIONAL CREDIT, AND INSPECTION

### 8.01 Minimum Passing Score

A. The Civil Service Commission shall endeavor to ascertain the minimum passing grade, as determined by the compiler of any professionally prepared civil service test. When available in advance, this information will be included on all test notices.

B. Applicants must achieve the minimum passing score, excluding any additional credits provided by these rules, as a prerequisite for further consideration for employment or appointment, and for certification to an eligible list.

C. Where such minimum passing grade is unavailable in advance from the professional testing service, the minimum passing grade shall be seventy-five percent (75%).

**8.02 Original Appointment Credits**

A. All applicants for original appointment who provided service in the uniformed services, as described in Oho Revised Code section 124.23, may file with the Commission a certificate of satisfactory uniformed service or honorable discharge whereupon he or she shall receive additional credit of twenty percent (20%) of his or her total grade given in the regular examination, provided that he or she has received a passing grade without regard to this or any other credit.

Such requests for uniformed service credit must be submitted to the Commission along with the application for examination and must, at that time, be accompanied by proof of satisfactory service in the uniformed services as described above. Requests for uniformed service credit made after the final date for test application will not be honored.

Applicants eligible for uniformed service credit on original examination shall receive a priority in ranking over those applicants without uniformed services credit who obtain an identical grade. Uniformed services credit will not be granted in addition to the Credit for Peace Officer Certification.

**8.03 Promotional Seniority Credit**

A. In promotional examinations for positions within the police and fire departments, additional credit for uninterrupted seniority within the department shall be added to the examination grade. No credit for seniority shall be added to an examination grade unless the applicant achieves at least the minimum passing score on the examination, absent any extra credit. For purposes of this section, departmental service interrupted by either military duty or job related injury shall not constitute a break in seniority.

B. Credit for seniority shall equal one percentage point (1%) added to the total grade attained for each of the first four (4) years of service, and for each of the fifth (5th) through fourteen (14th) years of service, six-tenths of one percentage point (0.6%) added to the total grade attained. In computing the credit for seniority, half of the credit specified in this paragraph shall be given for a half year of service. Credit for seniority shall be based only on uninterrupted service in the municipal civil service of the City of Shelby.

C. Credit for efficiency may be added to the examination grade of applicants in promotional examinations for Fire Department positions. Efficiency credit for Fire Department employees shall be ten percent (10%) of the applicant's average efficiency ratings for the year immediately prior to the date of the examination. Such rating shall be determined by ranking officers in accordance with Ohio Revised Code section 124.45. No credit for promotional efficiency shall be added to an examination grade unless the applicant achieves the minimum passing score on the examination.

### 8.04 Addition of Credits

A. Applicants for original appointment shall be entitled to only such credit as is set forth in Section 8.02 (relating to uniformed services credit).

B. In scoring all original and promotional examinations, no additional credit shall be given to any applicant, unless such applicant has achieved the minimum passing grade as determined prior to the addition of any additional credit and had filed with the Commission at the time of filing application for the examination, such proof of credit as is required by the Commission under these rules.

C. In calculating the amount of any seniority or uniformed services credit which an applicant who has achieved the minimum passing grade may be entitled to, the amount of such credit shall be the product of the applicable credit percentage multiplied by the initial passing grade attained by the applicant without regard to any other available credit.

### 8.05 Inspection and Grading of Examination Papers

A. A written report of the grades of the applicants shall be submitted by the testing entity to the Civil Service Commission, and the results posted at the office of the Mayor and the Civil Service Commission.

B. All papers, except actual examinations to be given, medical records, EEO information, or recommendations of former employers submitted by participants in any examination, shall be open to public inspection during office hours upon application to the Commission, provided such application is made during the period in which persons whose names appear on the eligible list resulting from such examination are eligible for appointment.

## RULE NINE ELIGIBLE LISTS

### 9.01 Preparation of Certified Eligible Lists

A. The Commission shall prepare and keep open to public inspection, from the results of each examination, a certified eligible list of those persons whose general average score in the examination is not less than the minimum passing grade, and who are otherwise eligible for appointment. Such persons shall take rank upon the certified eligible list as candidates in the order of their relative excellence as determined by the examination and any credits, without reference to priority of the time of examination.

B. All lateral applicants found to meet the requirements to be certified shall be ranked by their composite scores and combined into a single certified eligible list including all examinees and lateral candidates for the given examination period.

C. Whenever it becomes necessary to hold a subsequent examination in order to obtain additional eligibles, the Commission may consolidate existing lists for the same class by rearranging the names of those eligible therein according to their score.

D. All those persons whose names appear on an existing list, which is to be merged with a new list, shall have an opportunity to compete in the second examination, and shall be given the standing on the combined list to which the higher grade received on either examination shall entitle him or her during the continuance of the first list, and thereafter he or she shall rank in accordance with the grade received on the subsequent examination.

**9.02 Term of Eligible Lists**

The term of eligibility of each list shall be fixed by the Commission and expire upon the filling or closing of the position. An expired eligible list may be used to fill a position of the same classification within the same appointing authority for which the list was created, but in no event shall an expired list be used more than one (1) year past its expiration. Eligibility lists fixed by the Commission for promotions within the Fire Department shall be for a term of two (2) years.

**9.03 Ties: Original Appointment Eligible Lists**

A. In the event that two (2) or more applicants receive the same score in an original appointment examination, priority in the time of filing the application with the Commission shall determine the order in which their names shall be placed on the eligible list. Applicants eligible for uniformed service preference under Section 124.23 of the Revised Code shall receive priority in rank on the eligible list over applicants without uniformed service credit on the list with a rating equal to that of the applicant with the uniformed service. Ties among applicants with uniformed service credit shall be decided by priority of the filing of the application.

**9.04 Ties: Promotional Eligible Lists**

In the event that two (2) or more applicants receive the same mark on a promotional examination, priority in the time of signing up for the examination shall determine the order in which names shall be placed on the eligible list.

**9.05 Disqualification from Eligible List**

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

1. fails to report or arrange within six (6) days from date of notification (Saturday, Sunday, City holiday excluded) for an interview with the appropriate Appointing Authority;

2. fails to respond to a notice from the Commission;

3. fails to report for work after accepting appointment;

4. fails to pass a qualifying test prior to appointment;

5. lacks any of the established requirements for the classification;

6. has made false statements on his or her application;

7. separates from employment with the City;

8. has received a permanent appointment through certification from an eligibility list for another position of equal or more salary or rate;

9. has become incapacitated subsequent to examination;

10. has had errors discovered in the computation of the examination score of the eligible;

11. has requested that his or her name be removed;

12. fails to file with the Commission written notice of change of address, or for whom notification is provided by postal authorities of their inability to locate him or her at last known address;

13. becomes deceased;

14. for any of the reasons set forth in Chapter Nine which would have caused his or her application to have been rejected;

15. declines to accept an appointment without reasons satisfactory to the Commission

shall not thereafter be certified to any Appointing Authority as eligible for appointment. The potentially disqualified person shall be notified concerning the application of this section unless his or her whereabouts are unknown. The disqualified candidate's name may again be certified from the eligible list only where a thoroughly satisfactory explanation of the circumstances is made to the Commission. In the event of the refusal of an appointment by an eligible candidate, the Appointing Authority shall so notify the Commission.

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

C. If, at any time after the creation of an eligible list, the Commission has reason to believe that any person whose name appears on any list is disqualified from appointment because of false statements made on his or her application, inability to perform the job duties, lack of a necessary license, lack of insurability, or for other comparable reasons; such person shall be notified and given an opportunity to be heard. If such person shall fail to appear for hearing, or upon being heard, fail to satisfy the Commission, his name shall be removed from such eligible list.

**9.06 Removal from an Eligible List**

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

1. the written request of the eligible;

2. the expiration or revocation of the list;

3. the failure of the person listed on the eligible list to fulfill all of the requirements and qualifications set out by or under these Rules;

4. the refusal or neglect of the eligible within three (3) days after notice of appointment to accept appointment upon certification, unless a waiver of such appointment is sought by the eligible and approved by the Civil Service Commission; and

5. the death of the eligible.

**9.07 Duty of Eligibles**

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

**9.08 Revocation of Eligible List**

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

### 9.09 Separate Lists for Police and Fire

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

### 9.10 Certification of One Sex

The Commission may certify to the appointing authority from an eligibility list only the names of persons of one sex for appointment to positions where sex is demonstrated to be a bona fide occupational qualification.

## RULE TEN APPOINTMENTS IN GENERAL

### 10.01 Appointments in General

Vacancies in positions in the classified service are not to be filled or required to be filled until such time as the position is certified as vacant with a need for appointment thereto by the Appointing Authority.

Appointments to all positions in the classified service, other than those that are filled by exempt promotion, transfer, or reduction, as provided in Sections 124.01 to 124.64 of the Revised Code, and the Rules and Regulations of the Commission shall be made only from those persons whose names are certified to the Appointing Authority in accordance with these rules with the exception that lateral entry police officers or firefighter paramedics may be appointed without competitive examination pursuant to the City of Shelby Charter.

### 10.02 Appointment Procedure/Number of Names Certified

A. The Appointing Authority of a department in which a position in the classified service is to be filled shall notify the Commission of the classification title and the number of positions to be filled. Upon the receipt of this, the Commission shall, except as otherwise provided in sections 124.27, 124.30 (relating to temporary and exceptional appointments) and 124.31 (relating to promotions) of the Revised Code, and these rules, certify to the Appointing Authority the names and addresses of the candidates on the eligible list for the class or grade to which the position belongs.
B. The Appointing Authority, having notified the Commission of the position to be filled and having received such list, may then appoint. Except with respect to promotion within the Police and Fire Departments, the Appointing Authority shall fill such position by appointment of one (1) of the persons certified to him who ranks in the top twenty-five percent (25%) of the eligible list or from the top ten (10) certified candidates, whichever is greater.

### 10.03 Veterans Preference on Original Appointments

A veteran of active federal military service for at least one hundred eighty (180) days, who has been honorably discharged or separated under honorable conditions therefrom, and who is a resident of Ohio, and whose name is on the eligible list for a position, shall be entitled to preference in an original appointment to such competitive position over any other person eligible for such appointment and standing on the certified eligible list thereof with a rating equal to that of each such person.

### 10.04 Probationary Periods

A. Except for original appointments to the Police Department as a police officer or the Fire Department as a firefighter, all original appointments shall be for a probationary period of

one hundred and twenty (120) days or for a period determined by the terms of any applicable collective bargaining agreement. All promotional appointments including those within the Police and Fire Department shall be probationary for a period of one hundred and twenty (120) days or for a period determined by the terms of any applicable collective bargaining agreement.

B. Original appointments to the Police Department and to the Fire Department shall be for a probationary period of one (1) year or for a period determined by the terms of any applicable collective bargaining agreement. If the applicant does not have a current Peace Officer Certificate, the probationary period shall begin on the first working day after successful completion of training to obtain or update his Ohio Basic Peace Officer Certification.

C. No promotion shall be final until the appointee has satisfactorily served his probationary period.

**10.05 Removal or Reduction During Probation**

If the service of a probationary employee is unsatisfactory, he or she may be removed or returned to his or her prior position without right of appeal at any time during the probationary period. Unless the probationary appointee has been previously removed, the Appointing Authority shall immediately notify the Commission if the appointment is to be terminated during the last ten (10) days of the probationary period. Such notification shall be in writing. Removal or reduction may be made under the provision of Rule Nine at any time.

**10.06 Temporary, Exceptional, and Non-Competitive Appointments**

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

1. Temporary -- In case of an emergency, an appointment may be made without regard to these rules for a period not exceeding one hundred twenty (120) days, but in no case shall successive appointments be made. A temporary appointment longer than one hundred twenty (120) days may be made if necessary by reason of sickness, disability, or other approved leave of absence, in which case it may continue during the period of sickness, disability, or other approved leave of absence.

    a. The acceptance or refusal by an eligible of a temporary appointment shall not affect the person's standing on the register for permanent employment, nor shall the period of temporary service be counted as a part of the probationary service in case of subsequent appointment to a permanent position (Sections 124.27, 124.27.1, and 124.30 of the Revised Code). All such temporary appointments shall be promptly reported to the Civil Service Commission.

b. Persons who receive temporary appointments shall serve at the pleasure of their Appointing Authority.

2. Exceptional -- In case of a vacancy in a position in the classified service where peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable, and that the position can best be filled by a selection of some designated person of high and recognized attainments in such qualities, the Commission may suspend the provisions of Sections 124.01 to 124.06 of the Revised Code and these Rules requiring competition in such case, but no such suspension shall be general in its application. All such cases of suspension shall be reported in the annual report of the Commission with the reasons for this suspension of the rules.

3. Non-competitive **--** Whenever there are urgent reasons that an appointing authority must fill a vacancy, and the Commission cannot certify a sufficient list of eligibles, the appointing authority may submit the nominee's name and qualifications, along with any required supporting documentation, to the Commission, so the Commission may conduct an examination and determine whether to certify the nominee as qualified. Supporting documentation would include an explanation of how and why the appointing authority selected that candidate over other interested applicants. If the Commission certifies the person as qualified, the appointing authority may then appoint that person, who shall be designated as "a nontemporary appointment under Section 124.30(A)(1) and/or Section 124.23(E) of the Revised Code.

Any employee in the classified service who is appointed to a position under Section 124.30 of the Ohio Revised Code, and either demonstrates merit and fitness for the position by successfully completing the probationary period for the position or remains in the position for a period of six months of continuous service, whichever is longer, shall become a permanent appointee in the classified service at the conclusion of that period – except that this provision shall not apply to appointments in the Police or Fire Department.

4. Lateral Entry Police and Fire – The appointing authority may submit the name and qualifications, along with any required supporting documentation, of a candidate for lateral appointment to the position of police officer or the position of firefighter/paramedic to the Commission, so the Commission may conduct an examination and determine whether to certify the nominee as qualified. Supporting documentation would include an explanation of how and why the appointing authority selected that candidate over other interested applicants and must also demonstrate the requirements set forth below.

a. Lateral Entry Police Officer. In the case of appointment of any person to the entry-level position of police officer, the candidate must have obtained and maintained a Basic Peace Officer Certification (or equivalent) and must

have a satisfactory record of employment with another jurisdiction as a police officer, deputy sheriff, or state highway patrol officer. Any such candidate must also meet the age restrictions set forth in Section 6.03 of these Rules and must meet the Fitness for Service requirements of Section 6.04. Any candidate for lateral entry is subject to disqualification pursuant to Section 6.06, Character and Fitness.

b. Lateral Entry Fire Fighter. In the case of appointment of any person to the entry-level position of firefighter, the candidate must have obtained and maintained Ohio Professional Firefighter Certification (or equivalent) and Ohio Paramedic Certification (or equivalent) and must have a satisfactory record of employment with another jurisdiction as a firefighter. Any such candidate must also meet the age restrictions set forth in Section 6.03 of these Rules and must meet the Fitness for Service requirements of Section 6.04. Any candidate for lateral entry is subject to disqualification pursuant to Section 6.06, Character and Fitness.

**10.07 Promotional Appointments: Police and Fire**

In the case of a promotional appointment to be made in the Division of Police or Fire, the Commission shall certify to the Appointing Authority the name of the person standing highest on the list. Upon such certification, the Appointing Authority shall appoint the person certified within thirty (30) days of certification, ten (10) days in the case of an appointment within the Division of Fire. If there is no eligible list for the rank in which the available vacancy occurred, the Commission, within sixty (60) days of such vacancy occurring, shall hold a competitive promotional examination. After such examination has been held in the Division of Fire, an eligible list shall be established within twenty (20) days, and the Civil Service Commission shall certify the person receiving the highest grade.

**10.08 Promotional Restrictions: Police and Fire**

A. Vacancies above the rank of regular firefighter in the Division of Fire, and above the rank of patrol officer in the Division of Police, shall be filled by a competitive examination for promotion from among persons holding the next immediate lower rank. No such position shall be filled by original appointment.

B. Promotion of in the Division of Fire

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

2. When a vacancy occurs in a rank other than the promoted rank immediately above the rank of regular firefighter, no person shall be eligible to take the promotional examination unless he has served twelve (12) months in the rank from which the promotion is to be made, provided that, in those cases when there are less than two persons in that next lower rank who have served twelve (12) months in that rank

and who are willing to take the examination, the twelve-month service requirement shall not apply. If the nonapplication of the twelve-month service requirement to persons in the next lower rank does not produce two persons eligible and willing to compete, the same method shall be followed by going to successively lower ranks until two or more persons are eligible and willing to compete in an examination for the vacancy. If this process of searching successively lower ranks reaches the rank of regular fire fighter, the forty-eight-month service requirement applies, provided that, in those cases when that application still fails to produce two persons who are eligible and willing to compete, the forty-eight-month service requirement does not apply. If two persons are unwilling to compete for the examination, the one person who is willing to compete shall be appointed to fill the vacancy after passing a qualifying examination.

C. Promotion in the Division of Police

1. Whenever a vacancy occurs in the promoted ranks above the rank of patrol officer, no person shall be eligible to take the promotional examination unless he has served at least twelve (12) months in the next lower rank.

2. Whenever the commission determines that there are less than two persons holding positions in the rank next lower than the position to be filled, who are eligible and willing to compete, the commission shall allow the persons holding positions in the then next lower rank who are eligible, to compete with the persons holding positions in the rank lower than the position to be filled.

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

### 11.01 Tenure of Office

The tenure of every officer or employee in the classified service of the City of Shelby, the City of Shelby School District, and the Shelby City Health District, holding a position under Chapter 124 of the Revised Code, shall be during good behavior and efficient service, and except in cases of layoff or job abolishment, or as otherwise provided by the Revised Code or these rules, no such officer or employee shall be reduced in pay or position, suspended, or removed, except as provided in Section 124.34 of the Revised Code, and these rules, for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public,

neglect of duty, violation of such sections of the Revised Code or the Rules of the Commission, any other failure of good behavior, or any other acts of misfeasance, malfeasance, or nonfeasance in office, or any violation of the rules and regulations of the City of Shelby or the Shelby Police or Fire Department, or conviction of a felony.

A. A finding of the Ohio Ethics Commission, based upon a preponderance of the evidence that the facts alleged in a complaint under Section 102.06 of the Revised Code constitute a violation of Chapter 102, Section 2921.42 or Section 2921.43 of the Revised Code, may constitute grounds for dismissal.

B. Failure to file a statement or falsely filing a statement required by Section 102.02 of the Revised Code may also constitute grounds for dismissal.

**11.02 Procedure in General**

A. In any case of reduction, suspension of more than twenty-four (24) hours, or removal (including a removal under 10.05), the Appointing Authority shall furnish the affected employee with a copy of the order of reduction, suspension, or removal. Such order shall state the reason(s) therefore and shall be filed with the Commission. The procedures set forth in Rule 12 shall apply.

B. Within ten (10) days following the filing of such order, the employee may file a written appeal with the Commission, unless the employee was removed or reduced during the second half of the probationary period. In the event such an appeal is filed, the Commission shall forthwith notify the Appointing Authority and shall hear, or appoint a trial board to hear, such appeal within thirty (30) days from the filing of the appeal with the Commission. The Commission or trial board may affirm, disaffirm, or modify the judgment of the Appointing Authority.

C. In cases of suspension, removal, or reduction in pay or position for disciplinary reasons, either the Appointing Authority or the officer or employee may appeal the decision of the Commission to the Court of Common Pleas of Richland County or to the Court of Common Pleas of the county in which the employee resides in accordance with the procedure provided by Section 119.12 of the Revised Code. Such appeal shall be taken within ten (10) days from the date of notice of the finding of the Commission.

D. In cases of suspension, removal, or reduction in pay or position for disciplinary reasons involving employees covered by a valid collective bargaining agreement, the procedures provided by agreement shall be utilized.

**11.03 Procedure: Police and Fire**

A. In the case of suspension for any period of time, or demotion, or removal of the Chief of the Division of Police or Chief of the Division of Fire, or any other member of the Police or Fire Department, the Appointing Authority shall furnish such Chief or member of the

department with a copy of the order of suspension, demotion, or removal. Such order shall state the reason(s) therefore and shall be filed with the Commission. The procedures set forth in Rule 12 shall apply.

B. As Director of Public Safety, the Mayor has the exclusive right to suspend the Chief of the Police or Fire Departments. If either Chief is so suspended, the Mayor shall certify such fact together with the cause for such suspension to the Commission which within five (5) days from the date of receipt shall proceed to hear such charges and render judgment thereon.

C. Within ten (10) days following the filing of such order, such Chief or member of the department may file a written appeal with the Commission, except for employees removed or reduced during their probationary period. In the event such an appeal is filed, the Commission shall forthwith notify the Appointing Authority and shall hear, or appoint a trial board to hear, such appeal within thirty (30) days from the filing of the appeal with the Commission. The Commission or trial board may affirm, disaffirm, or modify the judgment of the Appointing Authority. An appeal on questions of law and fact may be had from the decision of the Commission to the Court of Common Pleas of Richland County, Ohio. Such appeal shall be taken within thirty (30) days from the finding of the Commission.

D. In cases of suspension, removal, or reduction in pay or position for disciplinary reasons involving employees covered by a valid collective bargaining agreement, the procedures provided by agreement shall be utilized.

**11.04 Disciplinary Action**

The Appointing Authority may suspend without pay, demote, discharge, or reprimand an officer or employee for:

A. Neglect of duty;

B. Absence without leave for any period of time;

C. Incompetency;

D. Inefficiency;

E. Conduct unbecoming an employee in the public service;

F. Intoxication in the course of employment;

G. The illegal use, sale, or possession of a drug of abuse as defined in Section 624.03 of the Shelby Codified Ordinances;

H. Disorderly conduct while on duty;

I. Insubordination;

J. Offensive conduct toward fellow employees, superiors, or the public in the course of employment;

K. Willful violation of any provision of law governing the civil service or rules or regulations of the Commission;

L. Conviction of a felony or of a misdemeanor involving moral turpitude;

M. Conviction of any law deemed related to the job to be performed by the officer or employee, although an actual conviction is not a prerequisite for discipline or discharge for an act or omission that would amount to a crime;

N. Negligent or willful damage to public property;

O. Wasteful use of public supplies or equipment;

P. Negligent, improper, or inefficient handling or accounting for public funds or accounts, or violation of any departmental rule or regulation respecting the handling or accounting of public funds or accounts;

Q. Engaging in any political activity which is prohibited by civil service law or the rules of the Commission; and

R. For any other failure of good behavior which is detrimental to the service, or for any other act of misfeasance, malfeasance, or nonfeasance in office;

S. Any other reason spelled out in an applicable, valid collective bargaining agreement.

**11.05 Disciplinary Suspension**

An officer or non-bargaining unit employee may be suspended for a period not to exceed twentyfour (24) hours for disciplinary purposes without a right of appeal to the Civil Service Commission.

**11.06 Absence Without Leave**

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

### 11.07 Procedure for Removal, Suspension, or Reduction

A suspension, removal, or demotion pursuant to Ohio Revised Code section 124.34 of a nonbargaining unit employee by an Appointing Authority shall not become effective until such time the Appointing Authority has first:

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

B. Served such employee a written order of discipline which contains one (1) or more statutory reason(s) for the grounds for discipline with such specifications of facts as shall fairly allow the employee to defend.

C. Filed a copy of such order of removal with the Commission within the time allowed.

### 11.08 Future City Employment Restricted

Any permanent officer or employee who is discharged from the City service or resigns therefrom while not in good standing shall be disqualified from taking any civil service examination for employment with the City.

## RULE TWELVE HEARING PROCEDURE

### 12.01 Time of Hearing; Notifications

Upon receipt from an employee or officer in the classified service of the City or the City School District of a timely appeal from an order of removal, reduction in pay or position, fine, or suspension for more than twenty-four (24) hours, the Commission shall set a time and place to hear such appeal and shall notify the appropriate Appointing Authority, as well as the employee and his attorney, if known, of the time and place of the hearing. Such notice must be in writing and mailed to the last known post office address of each party no less than ten (10) calendar days prior to the hearing date; however, this time limit may be waived by the Commission at the employee's request.

### 12.02 Amendments to Orders

Amendments to the orders of removal, reduction in pay or position, or suspension for more than twenty-four (24) hours, may be made by the Appointing Authority at any time, provided the employee and his attorney, if any, receive copies of the amended order prior to ten (10) calendar days before the time set for the hearing as provided herein.

### 12.03 Hearing Procedure

Hearings before the Commission may be public except when the nature of the charge may be offensive to public morality and decency. In such cases, the Commission may order the hearings

closed to the general public. In the hearing of such appeals, the order of procedure shall be as follows:

A. The Appointing Authority taking action affecting the employee shall present his evidence in support of the charges and specifications.

B. The employee affected shall then produce such evidence as he may wish to present to refute such charges.

C. The Appointing Authority may offer evidence in rebuttal. The Commission may, in its discretion, hear final arguments.

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

**12.04 Rules of Evidence; Representation by Counsel of the Parties**

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

**12.05 Burden of Proof**

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

**12.06 Hearsay**

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

**12.07 Discovery**

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

**12.08 Subpoenas**

Either party may request that a subpoena be issued by the Commission. Such requests shall be submitted no later than seven (7) days prior to the hearing. Such request must be accompanied by a completed subpoena form. Subpoenas *duces tecum* shall be submitted no later than ten (10) days prior to the hearing. It is the responsibility of the requesting party to serve the subpoena. The Commission may call witnesses other than those requested by the parties.

**12.09 Witnesses**

All witnesses must testify under oath or affirmation.

**12.10 Motions**

A. All motions shall state, with particularity, both relief sought by the moving party and the basis for granting such relief.

1. All motions together with supporting documentation, if any, shall be served on the opposing party.

2. Motions to dismiss an appeal shall be supported by affidavits, made on personal knowledge, setting forth facts as would be admissible in evidence. Affidavits shall show affirmatively that the affiant is competent to testify to the matter stated therein. Sworn or certified copies of all papers referred to in an affidavit shall be attached thereto. When a motion is made and supported as provided in this rule, an adverse party may not rest upon mere allegations or denials. An adverse party's response, by affidavit or otherwise, shall set forth specific facts showing there is a genuine issue in dispute.

B. Procedure motions not determinative of the final outcome of the appeal may be acted upon any time after receipt by the Commission without awaiting a response from the opposing party. The party adversely affected by such action of the Commission may move for appropriate relief.

**12.11 Record of Hearings**

The Commission may record hearings either by the use of a stenographer or through the use of a magnetic tape.

**12.12 Resignation before Final Action**

The acceptance by an Appointing Authority of the resignation of a person discharged before the final action by the Commission will be considered a withdrawal of the charges. Notice of such resignation shall be submitted immediately to the Commission. The separation of the

employee thus resigning shall be entered upon the records of the Commission and the proceedings dismissed without judgment.

**12.13 Trial Board/Hearing Officer**

The Commission may appoint a trial board or hearing officer to hear an appeal as provided in Rule 11.02. When the Commission exercises its discretion to do so, the following procedure shall apply before the Commission takes final action on the appeal. "Hearing officer" shall have the same meaning as trial board for purposes of this section.

A. The hearing officer shall submit a report to the Commission in each appeal considered by the hearing officer for the Commission.

B. No objection may be made to any decision of a hearing officer prior to the submission of the hearing officer's report and recommendation. Written objections to reports and recommendations shall be filed within ten (10) calendar days after receipt of the report and recommendation(s). Written replies to objections shall be filed within ten (10) days after the opposing party's objection has been filed.

1. If a report and recommendation is refused, unclaimed, or sent to the wrong address due to a party's failure to notify the Commission of a change of address, it shall be deemed received by the party three (3) calendar days after such mailing. A certificate of mailing shall be considered sufficient proof of mailing.

2. The Commission may extend the time to file objections or responses to the report and recommendation.

3. Objections to reports and recommendations should include a brief statement of each statement of the case and a concise statement of each area of disagreement with supporting arguments and memoranda. All parties' objections or responses must be limited to evidence presented at the hearing. Objections and responses to objections containing arguments based on evidence not already in the record may be stricken.

4. No objection without a certificate of service may be considered by the Commission.

C. The Commission may accept, reject, or modify, in whole or in part, any report and recommendation of the hearing officer. The Commission may also receive additional evidence, hear arguments, or remand an appeal to a hearing officer for further consideration or hearing.

D. Final orders shall be signed by the Chair or other member of the Commission. The original order shall be journalized and a copy of the order placed in the case file. Agreement of not less than two (2) Commission members shall be required to reject or

modify any report and recommendation of the hearing officer. If no such agreement is reached, the report and recommendation of the hearing officer shall be deemed affirmed as the final order of the Commission, but shall not have any precedential value.

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

1. Copies of orders returned to the Commission or unclaimed or refused shall be reissued by regular United States mail.

2. Copies of final orders returned to the Commission as undeliverable shall be placed in the case file and the opposing party shall be notified.

## RULE THIRTEEN LAYOFFS AND TRANSFERS

### 13.01 Layoffs or Reductions in General

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

### 13.02 Retention Points

Ohio Revised Code sections 124.321 through 124.328 and Ohio Revised Code section 124.37 provide that employees shall be laid off in descending order of retention points. "Retention points" means the system of points given to employees to determine the order of layoff.

A. An employee's total retention points shall be the sum of the base points plus the retention points assigned for continuous service.

B. The Appointing Authority shall compute the total retention points for each employee in the classifications affected by a layoff or position abolishment, including the classifications in which displacement may occur.

C. The Appointing Authority shall submit the required information to the Civil Service Commission for verification. Notification by appointing authorities to affected employees shall not occur prior to the Commission's verification of retention points.

D. Employees shall be assigned a base of one hundred (100) retention points. Computation of retention points for continuous full-time service shall be made by crediting each employee with one (1) retention point for each bi-weekly pay period of continuous service. Retention points for continuous service for other than full-time service shall be calculated on the basis of one-half (.50) point for each bi-weekly pay period of continuous service.

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

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

**13.04 Temporary Transfers**

A. An employee holding a position in the classified civil service may be temporarily transferred from his original position to a similar position, for a period not to exceed thirty (30) days, or for a longer period not to exceed ninety (90) days if agreed to by the employer and the employee.

B. No employee shall be temporarily transferred more than once during any six (6) month period without the approval of the Civil Service Commission.

C. If the Civil Service Commission approves a second temporary transfer within any six (6) month period, and the employee objects to the transfer because the temporary transfer is not necessary for the efficient operation of the office, the employee may appeal the temporary transfer to the Civil Service Commission. If the Civil Service Commission finds that the appeal of the employee is well taken, the Commission shall not approve the temporary transfer. If the Civil Service Commission finds that the appeal is not well taken, the Commission shall approve the temporary transfer.

**13.05 Permanent Transfers**

A. Subject to the other provisions of these Rules, an Appointing Authority may, with the approval of the Civil Service Commission, permanently transfer an employee in the classified service from his position to a similar position in another office, department, or division of the same Appointing Authority.

B. For the purposes of this Rule, a "permanent transfer" is any transfer in excess of thirty (30) days unless the employee and the employer have agreed to a temporary transfer of a longer period, not to exceed ninety (90) days.

C. The Appointing Authority requesting the permanent transfer shall notify the employee and the Civil Service Commission in writing of the request to transfer.

D. If the Civil Service Commission determines that the transfer is not necessary for the efficient operation of the office, department, or division, the Commission shall not approve the transfer and shall notify the Appointing Authority and the employee in writing that the transfer is not approved. If the Civil Service Commission determines that the transfer is necessary for the efficient operation of the office, department, or division,

the Civil Service Commission shall notify the Appointing Authority and the employee involved in writing that the transfer is approved.

## RULE FOURTEEN REINSTATEMENTS AND LEAVES OF ABSENCE

### 14.01 Leaves of Absence

An Appointing Authority may, with the consent of the Commission, grant a leave of absence to an employee in the classified service for a period not to exceed six (6) months. Upon the expiration of such leave of absence, such officer or employee shall be reinstated. All such leaves of absence granted by the Appointing Authority shall be referred to the Commission promptly for approval, in order that the Civil Service data of such absentees may be protected.

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

### 14.02 Reinstatements in General

Any person holding an office or position under the classified service who has been separated from the service without delinquency or misconduct on his part, and other than for disability, may, upon recommendation of the Appointing Authority and with the consent of the Commission, be reinstated within one (1) year from the date of such separation to a vacancy in the same or similar office or position in the same department within thirty (30) days after making written application for reinstatement. Such reinstatement may be predicated upon the person passing a physical examination made by a licensed physician and showing the person can perform the essential functions of the job. Any person reinstated pursuant to the authority of this paragraph shall not receive credit for seniority earned prior to a resignation or reinstatement. Police and firefighters who resign shall not be entitled to reinstatement to a position above the rank of police officer or fire fighter, regardless of the position/rank the person may have held at the time of resignation.

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

A. Any person holding an office or position under the classified service who is separated therefrom due to injury or physical disability, and who has been on an approved disability retirement under the Public Employee Retirement System (PERS) or the Police and Fireman Disability Pension Fund (PFDPF), and such retirement board certifies to the employer that the employee is physically and mentally capable of performing the duties of the same or similar position from which the employee was separated, the employee shall be restored to the same or similar position and salary as was held by the employee at the time of separation.

1. One who was separated due to injury or physical disability incurred the performance of duty may be reinstated immediately;

2. One who was separated due to injury or physical disability incurred other than in the performance of duty may be reinstated upon:

   a. filing a written application with the Appointing Authority for reinstatement to the office or position held at the time of separation; and

   b. passing a physical examination conducted by a licensed physician designated by the Police and Fireman's Disability Pension Fund which certifies the person is able to perform the essential functions of the office or position within two (2) weeks after making application for reinstatement;

   c. Such application for reinstatement must be filed within two (2) years from the date of separation and the applicant shall not have attained service eligibility retirement.

B. Any person who holds an office or position under the classified service in the Police or Fire Department, who resigns therefrom, may be reinstated to the rank of policeman or fireman upon filing a written application for reinstatement with the Commission within one (1) year from the date of resignation. A copy of the application shall be filed with the Chief of such department and the person shall pass a physical examination, conducted by a licensed physician that certifies the person is physically fit to perform the essential functions of the office of fire fighter or police officer (whichever is applicable). Any person reinstated pursuant to the authority of this Paragraph (B) shall not receive credit for seniority earned prior to resignation and reinstatement and shall not be entitled to reinstatement to a position above the rank of fire fighter or police officer, regardless of the position the person may have held at the time of the resignation.

## RULE FIFTEEN FEDERAL AND STATE OCCUPATIONAL PROGRAMS

### 15.01 City Participation

The rules of the Commission shall not be construed as prohibiting City participation in federal or state programs whose purpose and funding is intended to provide temporary and gainful occupation designed specifically for beneficiaries who are unemployed, underemployed, or otherwise considered to be disadvantaged.

### 15.02 Status of Program Participants

A. Participants in federal or state programs referred to above who are assigned to City worksites to qualify for benefits shall not be considered as being in the service of the City.

B. The provisions of these rules shall not apply to such participants, except as otherwise required by controlling federal or state laws or guidelines.

## RULE SIXTEEN PROHIBITIONS

### 16.01 Political Activity Prohibited

A. No officer or employee in the classified service of the City of Shelby, Ohio, the Shelby City School District, or the Shelby Health District shall engage in partisan political activity and shall not to that extent:

1. directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution to any political party or for any candidate for public office;

2. nor shall any such person solicit, directly or indirectly, orally or by letter, or be in any manner concerned in soliciting any such assessment, contribution, or payment from any officer or employee in such classified service;

3. nor shall any such officer or employee be an officer in a political organization or take part in politics other than to vote as he pleases, and to express freely his political opinions.

B. This provision shall not prohibit officers or employees of the City of Shelby, Ohio, the Shelby City School District, or of the Shelby Health District from making personal political contributions.

### 16.02 Fraud in Examinations Prohibited

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

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

B. willfully or corruptly, falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified pursuant to the provisions of the Civil Service Law, or aid in so doing; or,

C. willfully or corruptly make any false representations concerning the results of such examinations or concerning any person examined; or

D. willfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, or to be appointed, employed, or promoted; or

E. willfully personate any person or permit or aid in any manner any other person to personate him in connection with any examination, registration, or appointment or application or request to be examined, registered, or appointed; or

F. furnish any false information about himself or any other person, in connection with any examination, registration, or appointment or application or request to be examined, registered, or appointed; or

G. make known, or assist in making known to any applicant for examination, any questions to be asked on such examination; or

H. for any applicant taking an examination to assist any other applicant in any manner whatsoever; or

I. personally solicit a favor from any member of the Commission, appointing officer, or any person in his behalf solicit a favor; or

J. any applicant in any examination found to be using any means of information, other than that provided in the examination itself, such as memoranda, pamphlets, or books of any kind to assist him in answering the questions, shall have his examination papers taken up and filed with a "0" marking, when the circumstances justify such action.

**16.03 Payment for Appointment or Promotion Prohibited**

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

**16.04 Abuse of Official Power for Political Reasons Prohibited**

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

**16.05 Abuse of Political Influence**

No person who holds any public office, or who has been nominated for, or who seeks nomination or appointment to any public office, shall corruptly use or promise to use, either directly or indirectly, any official authority or influence in order to secure or to aid any person in securing for him/herself, or for another any office or employment in the classified service of the City of Shelby, Ohio, of the Shelby City School District, or of the Shelby Health District, or any

promotion or increase in salary therein, as a reward for political influence or service. No person, by means of threats or coercion, shall induce or seek to induce anyone in the said classified service to resign his position, or to waive his right to certification, appointment or promotion.

**16.06 False Statements**

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

**16.07 Violations**

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

**16.08 Prosecutions**

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