

# **XENIA CIVIL SERVICE COMMISSION**

## **RULES AND REGULATIONS**

**CITY OF XENIA, OHIO  
Comprehensive Revision  
accomplished on May 17, 2006**

Amendments:

- Rule 20 revised 04/16/2008 (FOOTNOTE #14)
- Rule 14 revised 05/21/2008 (FOOTNOTE #8)
- Definitions and Rule 14 revised 06/09/2008 (FOOTNOTES #6 AND #12)
- Rule 7 revised 03/09/2009 (FOOTNOTE #7)
- Rule 14 revised 07/13/2009 (FOOTNOTE #10)
- Rule 20 revised 10/12/2009 (FOOTNOTE #15)
- Rule 14 revised 03/08/2010 (FOOTNOTE #9)
- Rule 14, Sections 9, 11, and 13, revised 04/11/2022 (FOOTNOTE #11)
- Definitions revised 10/11/2010 (FOOTNOTES # 1, 2, 3, 4, & 5)
- Rule 20 revised 10/11/2010 (FOOTNOTE #13)
- Rule 21 revised 10/11/2010 (FOOTNOTE #22)
- Rule 20 revised 11/14/2011 (FOOTNOTE #17)
- Rule 20 revised 11/14/2016 (FOOTNOTE #21)
- Rule 20 revised 10/08/2018 (FOOTNOTES #16 AND #20)
- Rule 20 revised 01/11/2021 (FOOTNOTE #18)
- Rule 20 revised 04/12/2021 (FOOTNOTE #19)

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**XENIA CITY CIVIL SERVICE COMMISSION**

**RULES AND REGULATIONS**

**PREAMBLE**

The Xenia City Charter in establishing Civil Service provisions for employees of the City contains the following provisions:

**Section 10.03. Civil Service Commission; Composition, Term and Power.**

- (A) A Civil Service Commission consisting of five (5) members shall be appointed by the Council for a term of five (5) years, one (1) to be appointed every year.
  
- (B) The Civil Service Commission shall have authority to see that the employees in the classified service are appointed and retained on the basis of merit and fitness as governed by this Charter, City ordinances or the general laws of the State of Ohio.

**Section 10.04. Classification of Civil Service.**

- (A) The civil services of the City shall be divided into two (2) categories: the unclassified and the classified services.
  - (1) The unclassified service shall include:
    - (a) All officers elected by the people;
    - (b) The Clerk of City Council;
    - (c) The City Manager, Finance Director, Assistant City Manager, Law Director, Police Chief, Fire Chief, City Prosecuting Attorneys, division and department heads, and their assistants;
    - (d) The Personal Secretary to the City Manager; and
    - (e) Ordinary unskilled laborers.
  
  - (2) The classified service shall comprise all positions not specifically included by this Charter in the unclassified service. There shall be in the classified service two (2) categories to be known as the competitive and noncompetitive category:
    - (a) The competitive category shall include all positions and employees for which it is practicable to determine the merit, fitness and practical experience by competitive examination.
    - (b) The noncompetitive category shall include all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, technical or
    - (c) Educational character, as may be determined by the City Civil Service Commission.
  
- (B) The Civil Service Commission shall have the right to recommend suspension of and/or removal of employees to the appropriate authority in accordance with the provisions of this Charter, City ordinances or the general laws of the State of

Ohio. The appointing authority shall have the right to suspend and/or remove Employees in accordance with the provisions of this Charter, City ordinances or the general laws of the State of Ohio.

All rules, regulations and resolutions of determination heretofore adopted by the Civil Service Commission of Xenia, Ohio, in compliance with the rules and regulations hereinafter set forth shall become null and void. Those not in conflict shall be and the same hereby are incorporated in these rules and regulations.

## **ORGANIZATION AND DUTIES**

At the first regular meeting of each year the Civil Service Commission shall elect one of its members as Chairman. It shall be the duty of the Commission to adopt, amend and enforce a code of rules and regulations for the classification of positions in the classified service of the City of Xenia and for appointments and promotions therein. The Commission may amend from time to time, or temporarily suspend any of the rules and regulations. The Commission shall supervise all examinations held under these rules to ascertain the fitness and merit of candidates for the service of the City and certify the same as herein provided. The Commission shall have the power to appoint examiners, stenographers and clerks as may be by appropriation provided for by the City Council. The Civil Service Commission shall upon written request from the City Council make a report to the City Council of its activities.

## **DUTIES OF EXAMINER**

It shall be the duty of any examiner appointed by the Civil Service Commission and under the supervision of the Commission to prepare or provide the examinations, supervise the examinations and the grading of papers and such other duties as the Commission may designate or as may be necessary.

## DEFINITIONS.

A. Appointing Authority: The City Manager, Finance Director or Law Director shall have the power to appoint and terminate workers according to rules and regulations established by the Civil Service Commission.

B. Appointment: The designation of a person, by competent authority, to be an employee in a position and his/her induction into such position.

C. Break in Service: Any termination from City service other than a layoff. If an employee is reinstated within two years from the termination date (or one year prior to 1994), the prior service time will be credited to the employee for purposes of determining seniority.

D. Continuous City Service: The duration of employment not interrupted by resignation, retirement or discharge or other breaks in service.

<sup>1</sup>E. Continuous Classification Service: The duration of employment in a single classification in the Police and Fire classification series not interrupted by resignation, retirement or discharge or other breaks in service.

F. Classification (Class): A position, or group of positions, having similar duties, responsibilities, and qualifications so that the same title and job description may be utilized, and the same pay range is assigned. (See Rule 20, Section 15.)

G. Classification (Class) Series: Any group of classification titles having identical names but different numerical designations in series or identical titles except for designated levels of supervision; e.g. Operator (I, II, III), etc. (See Rule 20, Section 15.)

H. Displacement (Bumping): Exercise of a layoff process that will result in the substitution of one employee for another in the class series.

I. Efficiency Points: Points that are assigned to an employee to reflect efficiency in the performance of duties as determined by the performance evaluation.

J. Full-Time Employment: One who is appointed as a full-time employee.

K. Layoff List: The names of employees arranged in order of descending retention points *or classification retention points (police and fire classification series only)*<sup>2</sup>. The employee placing first, or at the top of the list, is the one with the least retention points.

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<sup>1</sup> Amended by CSC on 10/11/2010 (this definition added).

<sup>2</sup> Amended by CSC on 10/11/2010 (italicized text was added)

L. Order of Layoff: The sequence that all affected City Departments/Divisions must follow when laying off employees in relation to certified or provisional status, appointment type, and probationary period completion.

M. Part-Time Employment: One who is appointed as a part-time employee.

N. Position: Any specific job consisting of duties and responsibilities assigned by competent authority. A position may be full-time, part-time or temporary; it may be occupied or vacant.

O. Reemployment: The return of a laid off employee to city service in a position other than the position held by the employee when he/she was terminated.

P. Reinstatement: The return of a laid off employee to active service in the class series of layoff; an appointment made from a recall list.

Q. Retention Points: Total seniority points plus total efficiency points, added to a base factor of 100.

<sup>3</sup>R. Classification Retention Points: Total classification seniority points in the Police and Fire classification series plus total efficiency points, added to a base factor of 100.

S. Seniority: The uninterrupted length of continuous service with the City; service not interrupted by resignation, retirement or discharge. Laid off employees who are reinstated in City service within two years (one year for layoffs prior to January 1, 1994) after the layoff date will be returned all previously accumulated seniority, but will not be entitled to seniority time for the period of layoff.

<sup>4</sup>T. Classification Seniority: The uninterrupted length of continuous service in a single classification within the Police and Fire classification series beginning with the date of appointment into that classification with the City.

U. Seniority Points: The total number of points accumulated by an employee reflecting length of continuous service with the City (seniority).

<sup>5</sup>V. Classification Seniority Points: The total number of points accumulated by an employee reflecting uninterrupted length of continuous

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<sup>3</sup> Amended by CSC on 10/11/2010 (this definition added)

<sup>4</sup> Amended by CSC on 10/11/2010 (this definition added)

<sup>5</sup> Amended by CSC on 10/11/2010 (this definition added)

service in a single classification within the Police and Fire classification series within the City (classification seniority).

<sup>6</sup>W. Seniority Promotional Points: The number of points calculated as specified in Rule 14 – Promotions and limited to the full years of service within the applicable unit in which the promotional event is applied.

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<sup>6</sup> Amended by CSC on 06/09/2008 (this definition added)

## **RULE 1**

### **APPLICATION OF RULES**

In accordance with the provision of Charter Section 8.01 et seq, 10.03 and Chapter 274 of the Codified Ordinances of the City of Xenia, the Civil Service is divided into the unclassified and classified service as follows:

1. The unclassified service shall include:
  - (a) All officers elected by the people;
  - (b) The Clerk of Council;
  - (c) The City Manager, the Finance Director, the Assistant City Manager, the Law Director, the Police Chief, the Fire Chief, the City Prosecuting Attorneys, division and department heads, and their assistants;
  - (d) The Personal Secretary to the City Manager;
  - (e) Ordinary unskilled laborers; and
  - (f) Municipal Court employees.
  
2. The classified service shall comprise of all positions not specifically included by the Charter in the unclassified service.

There shall be in the classified service two classes to be known as the Competitive and noncompetitive classes:

- (a) The competitive class shall include all positions and employees for which it is practicable to determine the merit and fitness by competitive examination.
- (b) The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character, as may be determined by the Civil Service Commission.

## **RULE 2**

### **APPLICATION FOR EXAMINATION**

Applications for positions included in the competitive class must be filled out by the applicant upon preprinted forms prescribed and furnished by the Human Resources Department, subject to the approval of the Commission. Applications must be filed with the Human Resources Department during the office hours not later than the date advertised as the closing date.

In the event a statement in an application is false and if truly stated the applicant would be ineligible for appointment, and as a result of said application containing the false statement, the applicant is appointed to a position in the classified service, he/she shall not have achieved civil service status and shall be subject to dismissal without the protection of Rule 15. If information is omitted, but supplied upon request before testing or interview, such application will not be rejected for omissions.

## RULE 3

### **RECRUITING STANDARDS FOR POLICE OFFICERS AND FIREFIGHTERS**

Section 1. General Requirements:

- A. Each applicant shall be a citizen of the United States.
- B. Age requirement for an original appointment as Police Officer is a minimum of 21. Minimum age for a Firefighter is 18.
- C. Applicants must have a high school diploma or equivalent and must be a holder of a valid Ohio motor vehicle operator's license at time of appointment and be insurable under the City's vehicle insurance program.
- D. All appointments made on or after September 1, 1977, to the sworn positions within the Police Division and Fire Division of the Department of Public Safety, shall be of persons who acquire or retain residency within the limits as prescribed in these sections. Persons may be appointed who certify, in writing, that they will satisfy all residency requirements within six months after appointment. Appointees who fail to acquire or retain their residence within the required limits shall be dismissed from employment.

If an unusual hardship or emergency is found to exist by the City Manager, the City Manager may, in his or her discretion, permit an appointee to live temporarily outside the required residency limits for a period of no longer than six months. Failure of the appointee to resume his or her proper residency during such six-month period shall result in termination of his or her employment.

- (1) All affected employees must live in Greene County or contiguous county to Greene County within six months after the date of appointment.

Section 2. Special Consideration for Non-Certified Police Officers and Firefighters

Applicants without certification as an Ohio Level II Firefighter/Paramedic or an Ohio Peace Officer will be considered for examination, assessment, and selection along with certified applicants. However, due to the added cost to the City in wages and benefits, as well as tuition cost, the City of Xenia requires that you sign an agreement that affects the length of probationary period, rate of pay, and training cost recovery.

### Section 3. Physical Standards for Police and Firefighters

Applicants for appointment as Police Officers or Firefighters shall meet the following physical standards:

#### HEIGHT AND WEIGHT:

Height shall correspond to weight of the applicant as determined by an examining physician.

#### VISION:

- A. Corrected distant visual acuity (glasses or contact lenses) of at least 20-20 in either eye and both eyes together. The candidate must have a spare pair of glasses that correct vision to this standard, if he/she receives an appointment to the Xenia Police or Fire Divisions.
- B. A contact lens wearer must have a pair of back-up temporary glasses that correct vision to at least 20-30 in each eye and provide proof that he/she has been successfully and comfortably fitted and meets the vision standards outlined above: i.e., achieves 20-20 in each eye with the contact lenses, if the applicant receives an appointment to the Xenia Police and Fire Division.
- C. Causes for Rejection:

No applicant can be considered who has been found to have:

- (1) Color vision deficiency or blindness.
- (2) Any visual field defects or loss.
- (3) Presence of active, chronic diseases of the eye or lids. Normal stereopsis is the ability to perceive 40 seconds stereo acuity.

#### NOSE:

Obstructions are cause for rejection only if severe or the seat of chronic inflammation.

#### SINUSES:

Reject only chronic cases.

PALATE:

Perforations of the palate should be rejected. Cleft palate and harelip should be rejected if they cause a speech defect unacceptable to essential job functions.

TONSILS:

Chronic case cause for rejection.

HEARING:

If one ear is normal, a loss of as much as 30% may be tolerated in the other. Perforation of the drum is not acceptable.

CHEST MEASUREMENT:

Expansion must be at least 1½ inches.

BLOOD PRESSURE:

A diastolic pressure over 90 or a systolic reading over 140 will not be accepted for appointment to the Xenia Police or Fire Divisions.

PULSE:

Pulse must respond well to exercise and return to approximately normal after two minutes rest.

Irregularities must not be accepted unless the case has had a careful cardiac study and the irregularity is found to be entirely functional.

LUNG TUBERCULOSIS:

No case of tuberculosis rated as more than "healed primary" can be accepted. Tumors of lungs are rejected. Asthma cannot be accepted.

STOMACH:

Chronic diseases, such as ulcer, are cause for rejection.

INTESTINES:

Mucous colitis, ulcerative colitis, and hemorrhoids are causes for rejection. (In case of hemorrhoids the applicant may become acceptable after surgery.)

HERNIA:

Relaxed rings may be accepted as long as there is firm musculature behind the ring and no impulse on coughing.

EXTREMITIES:

Bones - No chronic bone disease is acceptable. Osteomyelitis and periostitis are to be rejected. Kyphosis is to be rejected. Herniated disc is not acceptable.

NEURO PSYCHIATRIC:

Reflexes, if exaggerated or absent, must be carefully studied. If due to organic diseases such as syphilis, are causes for rejection.

All nervous and mental diseases should be rejected.

VARICOCELE:

Acceptable only after repair.

URINALYSIS:

The presence of sugar, albumin (more than a very faint trace), bile, pus, blood or casts (more than occasional hyalin) are cause for rejection.

CHEST X-RAY:

See under lungs.

BLOOD TESTS:

Free of contagious bloodborne pathogens.

SUBSTANCE ABUSE:

Active use of "drugs of abuse" shall be cause for rejection.

GENITALS OR GYNECOLOGY:

Males: Must be free from deformities and from marked varicocele, hydrocele, enlargement of the testicle, stricture or urinary incontinence, retained testicle or atrophy cause for rejection.

Females: Examination shall be conducted to ascertain intactness of internal organs and the absence of cervical, uterine and ovarian pathology.

RECTUM AND ANUS:

Must reject for fissures, fistulas and external or internal piles.

ARMS, LEGS, HANDS AND FEET:

Applicant should possess an index, middle and third fingers and thumb in their entirety. Great toe must be present in its entirety.

Section 3. Physical Agility

Each applicant shall be required to participate in and pass a job related physical agility test to determine he/she has the appropriate physical strength, ability, mobility and stamina to perform the essential physical tasks of the position.

Section 4. Moral Character

Each applicant shall be of good character, have a good credit rating and be without record of arrest for a felony or misdemeanor involving violence or moral turpitude. To insure that each applicant who has successfully passed the examination is of good character and meets the standards of this Section, the Commission may:

- A. Obtain a confidential background investigation of his/her character and behavior from the Xenia City Police Division or from another police or investigative agency.
- B. Obtain a Federal Bureau of Investigation, Bureau of Criminal Investigation, and credit reports on each applicant.
- C. Require the applicant to submit to a polygraph test, at the discretion of the Commission.
- D. Study and analyze the reports and information furnished the Commission and determine whether or not the applicant is of good character and has a satisfactory credit rating and is without a record of arrest as required by this section.
- E. Remove from the appointive list the names of the applicants failing to achieve the standards of merit and fitness required by the Charter and the Commission's Rules and Regulations.
- F. Require the applicant or probationary appointee to take psychological, intelligence and personality test.

## **RULE 4**

### **JOB DESCRIPTIONS**

#### Section 1. Job Descriptions

The Civil Service Commission, with the assistance and upon recommendation of the appointing authority, shall prepare or review, and may amend from time to time, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of any classified positions, office, or employment of the City, and may allocate and re-allocate any such position, office or employment to the appropriate class on the basis of the duties, responsibilities, requirements and qualifications of such positions, offices or employments.

#### Section 2. Job Specifications

The specifications mentioned in Section 1 of this rule shall be written Job Descriptions in the form approved by the Civil Service Commission.

## **RULE 5**

### **LATERAL ENTRY OPTION FOR POLICE AND FIREFIGHTERS**

#### **Section 1. Competitive Written Examinations**

The appointing authority shall have the authority to determine that competitive written examinations for lateral entry to the positions of Police Officer and Firefighter requiring previous experience and training, may be dispensed with, and instead, may insist on completion of an application, submission of proof of experience and training, an oral interview, and such other matters as the appointing authority may determine are appropriate.

#### **Section 2. Outside Search and Selection**

The appointing authority shall have the authority to determine that in such cases of promotion to Police Captain or Fire Captain, where there is cause to believe the best interest of the City would be served by a lateral entry process, the promotional process may be replaced by an outside search and selection process. At the discretion of the appointing authority, the outside search may include applications from within the employ of the City. In all cases, candidates must pass all physical, testing, and experience requirements.

#### **Section 3. Exercising this Option**

In order to exercise this option, the appointed authority shall submit a detailed request and rationale to the Civil Service Commission for approval.

## **RULE 6**

### **PROBATIONARY APPOINTMENTS**

#### Section 1. Original and Promotional Appointments

All original and promotional appointments of uniformed employees of the Fire and Police Divisions, including Communications Operators, shall be for a probationary period of one year. All original and promotional appointments of all other classified employees of the City shall be for a probationary period of six (6) months. No appointment or promotion is final until appointee has satisfactorily served his/her probationary period. Service as a provisional employee in the same or similar class shall be included in the probationary period. If the service of the probationary employee is unsatisfactory he/she may be removed or reduced at any time during his probationary period, except as otherwise provided by law.

#### Section 2. Special Consideration for Non-Certified Police Officers and Firefighters

Applicants without certification as an Ohio Level II Firefighter/Paramedic or an Ohio Peace Officer will be considered for examination, assessment, and selection along with certified applicants. However, due to the added cost to the City in wages and benefits, as well as tuition cost, the City of Xenia requires that you sign an agreement that affects the length of probationary period, rate of pay, and training cost recovery. (See the agreement titled "Firefighter/Paramedic Certification Report and Police Officer Certification Report.)

## **RULE 7**

### **OPEN COMPETITIVE EXAMINATIONS TO BE ADVERTISED**

Notice of open competitive examinations to be held shall be advertised in one newspaper of general circulation in the City of Xenia and/or by other electronic media<sup>7</sup> at least two (2) weeks prior to such examination and by the posting of such announcements as the Commission may think advisable.

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<sup>7</sup> Amended by CSC on 03/09/2009 to allow for electronic media advertising.

## **RULE 8**

### **CONDUCT OF EXAMINATIONS**

#### **Section 1. The Examination**

Every examination shall be under the direction of the Commission, or its designated agent. Examinations shall be impartial, fair and practical, designed to test the real qualifications and fitness of the applicants to discharge the duties of the particular position which they seek to fill. No question shall relate to the political, religious or racial connections or affiliations of the applicant. The Commission may require applicants to furnish a written statement of their experience, education or training which may be regarded by the Commission as part of the examination. Any challenge to questions in the examination must be filed in writing with the Clerk of the Civil Service Commission within five (5) working days of the date of the examination.

#### **Section 2. Examination Content**

Examinations may include any method that is designed to fairly test the relative capacity of applicants to discharge the duties of the particular position which they seek to fill. Test may be written, oral, or physical demonstration of skill, an evaluation of training and experience, or any combination thereof as determined by the Commission. When an oral examination is conducted, it shall be given a weight not to exceed thirty percent (30%) of the combined total score of each applicant.

#### **Section 3. Qualifying Score**

On a written examination applicants will be marked on a scale of 100%, and 70% (or other predetermined score) will be required on the written examination to place an applicant's name on the eligible register.

#### **Section 4. Weighted Scoring**

If an examination consists of more than one testing procedure (i.e., written, oral, physical agility, etc.), the passing score(s) achieved by each applicant shall be multiplied by the appropriate weight assigned to each portion of the examination as determined by the Civil Service Commission. Applicants for the positions of firefighter and police officer shall meet other requirements as set forth in the written Application Process heretofore approved by the Civil Service Commission.

Section 5. Physical Agility Testing

- A. A candidate for the Fire Division or Police Division may be required to take and must pass a physical agility test, consisting only of job related physical operations, in a form and manner approved by the Civil Service Commission and administered by the Department/Division Chief or his/her designee. A zero score in any portion of the physical agility test shall result in disqualification of the applicant. The following considerations shall be applied to candidates for positions in the Fire Division and/or Police Division if the physical agility test is required:

Written examination - 70%

Agility test - 30%

- B. If the physical agility test is not required, the written examination of a candidate shall be weighted 100%.

## **RULE 9**

### **ELIGIBLE LIST**

An eligible list for original appointments shall be prepared from time to time as the needs of the service may require, for each position in the classified service, from the candidates who have been found duly qualified after competitive examination. The term of an eligible list for original appointments is fixed at one year from the date of original certification.

## **RULE 10**

### **APPOINTMENTS IN COMPETITIVE CLASS**

#### **Section 1. Order of Filling Vacancies**

Every vacancy in the classified service not filled by internal lateral transfer, authorized transfer, promotion, voluntary reduction, or reinstatement, in that order of priority shall be filled by appointment from the eligible list established for that position, or as provided for by specific sections of this rule.

#### **Section 2. Lists from Competitive Exams**

Appointments shall be made to or employment shall be given in all positions in the competitive class by selection of persons certified on the most nearly appropriate eligible list resulting from open competitive examinations held by the Commission except as herein otherwise provided.

#### **Section 3. Certification of Eligibility Lists**

Whenever the appointing authority shall request a certification from the Commission for appointment to or employment in any position in the competitive class, he/she shall specify the title, duties and compensation for such position, so certification may be made from the proper eligible list; or when necessary, a proper list may be prepared as the result of an open competitive examination held for that purpose. The Commission shall thereupon, as soon as practicable, certify to the appointing authority for appointment, from the eligible list most nearly appropriate to such position as it may then exist, the names of all persons on such list indicating rankings and post office addresses of such persons.

- a. Minimum Grade – For exams with a minimum grade established by the Civil Service Commission at the time of exam approval, only candidates scoring higher than the minimum shall be certified.
- b. Ranking by Score – For an exam with no established minimum score, the Commission shall certify the names of the candidates in the order of their scores.
- c. Rule of 10 – The Commission shall certify the score of all candidates completing the testing/assessment process to the appointing authority. The appointing authority may select any candidate ranked in the top 10 of the eligibility list. The list of 10 shall be considered a “rolling list of 10” where candidates who become disqualified may be replaced by the

next candidate on the list, thereby maintaining 10 viable candidates.

- d. Reasons for Disqualification – The appointing authority may disqualify and remove from the list of 10 any candidates based on Sections 4 or 5 of this rule or for any of the following reasons: falsifying any part of the application or background information, discovery of violation of the designated “disqualifiers” established by the Commission.

#### Section 4. Failure to Accept Offer

When an eligible person certified for appointment fails to accept an offer of appointment, made by mail or otherwise, within the four (4) business days succeeding the notice of appointment, he or she shall be deemed to have declined the appointment and his or her name shall be stricken from the eligible list. If, however, it shall be made to appear to the satisfaction of the Commission within thirty (30) days after giving such notice that the person was unavoidably, and without fault on his or her part, prevented from accepting said appointment, the name may be restored to its proper position on the eligible list.

#### Section 5. Failure to Accept Salary

An eligible person who has declined an appointment on the grounds of insufficiency of salary offered shall be removed from the current eligibility list.

#### Section 6. Limitations on Provisional Appointments

When there is a provisional appointment made in accordance with Rule 12, the following limits apply. Such provisional appointment shall continue in force only until a regular appointment can be made from an eligible list prepared by the Commission and such eligible list shall be prepared within a six (6) month period from the date of such provisional appointment. Interim or temporary appointments, made necessary by reason of illness or disability of regular employees, shall continue only during such period of sickness or disability. However, any employee who is appointed provisionally to fill a vacancy and who remains in provisional status in the same classification for a period of two (2) years of continuous service, during which period no competitive examination is held, becomes a permanent appointee in the classified service at the conclusion of such two (2) year period. If the service of the provisional appointee is unsatisfactory, he/she may be removed from the position at any time during his/her provisional status.

Section 7. Rules Must Apply

The appointing authority shall not appoint, engage, employ or promote any subordinate officer or employee in the classified service or in any way change the official status of any such officer or employee, except in accordance with these rules, and no such appointment, engagement, employment, promotion or other change of status, made in contravention of any provision of these rules shall be valid.

Section 8. Temporary Appointments

Temporary appointments may be made when there are urgent reasons for filling a position due to illness or injury of a permanent employee, when a permanent employee is on leave of absence, when a permanent employee has been temporarily assigned to other duties, or when additional work must be performed that is of temporary nature and can be completed within a specified time. Such temporary appointment shall not be counted as time served towards completion of a probationary period, nor confer any vested right in a permanent position in the same title, grade or classification.

Temporary appointments made pursuant to the authority of this section must be terminated within the time limit originally specified for such appointments and no later than the date on which a regular permanent employee returns to his/her normal duties.

Section 9. Vacancies Shall be Posted for In-service Employees

All full-time permanent entry level and promotional positions which become available shall be posted on bulletin boards within City Offices in locations approved by the Civil Service Commission for a period of one week or other period also determined by the Civil Service Commission. Any full-time permanent City employee who has completed his or her probationary period and who meet the minimum qualifications of the position opening is eligible to apply for a posted job opportunity. Such application shall be in writing upon forms designated by the Commission.

- a. Competitive Appointment or Promotion - In the event there are more in-service applicants than positions available, an in-service competitive examination approved by the Civil Service Commission will be given to those in-service applicants. This exam will be for the purpose of determining the most qualified of the in-service applicants. If the in-service examination does not provide persons eligible for appointment, an eligibility list shall be created and certified by Civil Service Commission and be used to make the

appointment in accordance with Rule 10 (Sections 1 - 8) or Rule 14, as applicable.

- b. Non-Competitive Appointment or Promotion - If the number of employees applying for promotion is equal or less than the number of vacancies, a non-competitive promotional advancement may be made without a formal examination when it is recommended by the appointing authority and approved by the Civil Service Commission. The employee must possess the experience, training or other qualifications within the job description for that position in which he/she is being promoted. Evidence of the employee's qualifications must be significant in qualitative and quantitative terms to warrant civil service approval.

Section 10. Preference for Temporary Appointment

Preference shall be given to permanent City employees for temporary appointments under Section 8 of Rule 10.

Section 11. Preference for Provisional Appointment

Preference shall be given to permanent City employees for provisional appointments and transfers of full-time permanent City employees from one position to another may be made provisionally pursuant to Rule 11.

Section 12. Uniformed Positions Exempt

Uniform positions of the service with the Police and Fire Divisions and positions in Communications are exempt from the provisions of Rule 10, Section 9.

Section 13. Vacancies under Appeal Filled as Temporary

Any appointment made to a position vacancy created by reduction or termination that can be appealed, shall be a temporary appointment for the period of appeal. Should the reduced or terminated employee be returned to the position, the temporary appointee shall be returned to his or her previous position.

## **RULE 11**

### **APPOINTMENTS FOR NON-COMPETITIVE CLASS**

Positions in the non-competitive class may be filled by the appointing authority by filing with the Commission the name or names of the person or persons who he/she desires to appoint, together with such proof of education, training, experience, ability, character and other information as the Commission may require.

## **RULE 12**

### **PROVISIONAL APPOINTMENTS**

#### Section 1. Appointments

Whenever a vacancy occurs in a position, and upon a written request of the Department Head, the appointing authority may place an employee in the position on a provisional basis until such time as a competitive examination is conducted. In order for the employee to retain permanent status in that position, he/she shall participate in said competitive examination and qualify as a result of that examination for a permanent appointment in said position.

#### Section 2. In –Service Appointments

In the event the provisionally appointed employee fails to qualify for said position as a result of the competitive examination, he/she will revert to his/her former step and grade and pay classification immediately upon the appointment of the person qualified as a result of said examination.

#### Section 3. New Employee Appointments

In the event the provisionally appointed person is appointed directly to the position as a new employee, he/she shall participate in the next competitive examination conducted and qualify for permanent appointment in the same manner as an employee already in the employment. In the event the new employee fails to qualify as a result of the competitive examination, his/her appointment to that position will terminate upon the appointment of the person qualified as a result of the examination.

#### Section 4. Step and Grade

The salaries or wages paid to said employee during the term of a provisional appointment shall be at the step and grade for the position for which the work is being performed.

## **RULE 13**

### **EFFICIENCY**

The Commission shall ascertain the efficiency rating of the various employees of the departments by means of annual reports for other than probationary or provisional employees from the appointing authority annually near the anniversary date, appointment date, or other specified annual period. The Department/Division Heads shall file Employee Performance Evaluation Reports with the appointing authority on forms approved by the Civil Service Commission.

## RULE 14

### **PROMOTIONS**

This rule, governing promotions, applies only to advancement within a single class series as defined by the definitions in the Preamble.

<sup>8</sup>For the purpose of this rule, the following positions<sup>9</sup> are considered competitive promotional and shall be subject to the promotion rules:

Police Captain	Police Sergeant
Fire Captain	Fire Lieutenant
Secretary	Equipment Operator
Public Service Foreman	WWTPO – II
Lab Tech – II	WTPO – II
Semi-Trailer and Press Operator <sup>10</sup>	

#### Section 1. Order of Filling Vacancies

Vacancies in positions above the lowest grades in the competitive class that are not filled by transfer, reinstatement or reduction shall be filled as far as practicable by competitive promotional tests.

#### Section 2. Commission Control

An examination for promotion shall be conducted by and under control and direction of the Commission or its Examiners.

#### Section 3. Posting and Applications

Notice of a promotional examination shall be posted in the Office of the Commission, as well as in the department in which the promotion may be made, for two (2) weeks prior to such examination and shall indicate the grade or rank of those eligible thereto. Applicants for a promotional examination shall register with the Commission by the date and time specified in the notice.

#### Section 4. Exam Content

In any promotional examination the candidate shall be examined in such matters as will fairly list knowledge of the actual duties, responsibilities and requirements of the position to be filled and fitness and qualifications to discharge such duties and meet such requirements.

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<sup>8</sup> Amended by CSC on 05/21/2008 (this paragraph added)

<sup>9</sup> Amended by CSC on 03/08/2010 to remove the Public Service Supervisor, WWTP Supervisor, and WTP Supervisor positions

<sup>10</sup> Amended by CSC on 07/13/2009 to add this position

Section 5. Weight of Special Tests

Where a physical or psychological test is not included in the schedule for promotional examinations, such tests may be added as a subject and weight thereof may be fixed by the Commission prior to the promotional examination.

Section 6. Review of Past Performance (Efficiency)

To enable the Commission to grade applicants for promotion as relates to their past record and efficiency in the service, they shall have the right to call on the respective Heads of Departments, Divisions or Bureaus and superior officers to report to them the record of each applicant for promotion, and to give information as to the past service and efficiency of such applicants, and of their ability as shown by such past service to fill the higher positions for which such examination is held. The records of such departments shall be open to the inspection and examination of the Commission, or those designated by it for such purpose.

Section 7. One Person Eligible

Whenever there is but one person eligible for promotion to fill a vacancy, he or she may be nominated by the appointing authority and may be promoted to the next higher grade upon a statement of the facts to the Commission, and on passing a non-competitive examination similar in scope, subjects and preliminary conditions to such examination as would have been prescribed in case of competition.

Section 8. Conduct of Examinations

Except as this rule otherwise provides, the conduct of an examination for promotion and the making of selections therefore from any eligible register formed as the result of such examination shall be governed by the rules relating to original appointment.

Section 9. Service requirements for Police and Fire Services<sup>11</sup>

Service time eligibility will be calculated to the date of the written exam for police services.<sup>11</sup>

Service time eligibility will be calculated to September 1<sup>st</sup> of the year of the promotional process for fire services.<sup>11</sup>

- A. A Police Officer must have had five (5) years service in grade in the Division of Police in the City of Xenia to be

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<sup>11</sup> Rule 14, Sections 9, 11, and 13 amended by CSC on 04/11/2022.

eligible to take an examination for promotion and be appointed to the position of Police Sergeant.

- B. A Police Sergeant must have had three (3) years in grade in the Division of Police in the City of Xenia, which shall include his/her probationary period, to be eligible to take an examination for promotion and be appointed to the position of Police Captain.
- C. A Firefighter must meet the qualifications described in the job description and have a minimum of two (2) years prior experience as a full-time firefighter paramedic immediately preceding the date of hire with the City of Xenia Fire Division and three (3) years fully certified as a firefighter paramedic with the City of Xenia Fire Division or five (5) years with the City of Xenia Fire Division with at least three (3) of the five (5) years fully certified as a firefighter paramedic to be eligible to participate in the promotional process and be appointed to the position of Fire Lieutenant.<sup>11</sup>
- D. A Fire Lieutenant must meet the qualifications described in the job description and have three (3) years in the grade in the Division of Fire in the City of Xenia to be eligible to participate in the promotional process and be appointed to the position of Fire Captain.<sup>11</sup>

Section 10. Ranking Formula

The ranking of the candidates will be based on the following:

Oral or skills test	30%
Written	60%
Seniority	10%

The Civil Service Commission may conduct the written and oral examinations or select a person or persons to conduct the examinations in order to determine the proficiency of the applicant or applicants.

Where no oral or skills tests are conducted, the formula for ranking shall be:

Written	90%
Seniority	10%

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<sup>11</sup> Rule 14, Sections 9, 11, and 13 amended by CSC on 04/11/2022.

Section 11. Assessment Process<sup>11</sup>

The Civil Service Commission may, at its discretion, elect to contract the services of an independent assessment provider in lieu of conducting the process listed in this section. The ranking of the candidates will be based on one of the following:

OPTION I		OPTION II	
Assessment Process	60 points	Chief's Interview	20 points
Written Exam	30 points	Assessment Process	40 points
Seniority	10 points	Written Exam	30 points
		Seniority	10 points

Section 12. Seniority Calculations

Credit for seniority shall be determined as follows:

- (a) One percentage point (1.) shall be credited for each full year of the first four (4) years of service.
- (b) Six-tenths of a percentage point (.6) shall be credited for each full year of the next ten (10) years of service.
- (c) Not more than 10 percentage points shall be credited to any applicant for seniority towards a final grade.

Section 13. Seniority Calculation Period<sup>11</sup>

The credits and allowance for seniority and/or eligibility to qualify for promotional examinations shall be determined prior to the date on which promotional examination is held. Credit shall be given for all allowable service up to and including the day on which the examination is held for police services. Credit shall be given for all allowable service up to and including the date of September 1<sup>st</sup> of the promotional process year for fire services. <sup>12</sup>Allowable service for calculating promotional seniority points shall be based on the time within the same unit for which the promotional event is being applied (i.e., Police, Fire, Public Service, etc.).

Section 14. Term of Promotional Lists

An eligible list for promotional appointments shall be prepared from time to time as the needs of the service may require, for each position in the classified service, from the candidates who have been found duly qualified after

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<sup>11</sup> Rule 14, Sections 9, 11, and 13 amended by CSC on 04/11/2022.

<sup>12</sup> Amended by CSC on 06/09/2008 (added this sentence)

competitive examination. The term of a promotional list for appointments is fixed at two (2) years from the date of original certification.

Section 15. Extensions of Promotional Lists Prohibited

At no time will a promotional list be extended beyond the certified expiration date. Urgent appointment needs during the transition between certified lists must be delayed, filled provisionally or temporarily, or the appointing authority may make a written offer of appointment prior to the expiration date of the list, and provided the effective date is no greater than thirty (30) days after the expiration date.

## **RULE 15**

### **SEPARATIONS**

#### Section 1. Appointing Authorities.

The appointing authority shall have the power to remove and discharge at will, any subordinate employee, except as provided in Section 10 of the City Charter, but such removal or discharge shall be forthwith reported in writing, together with the cause thereof, to the Commission. Such report shall be made when the reason is lack of work as well as in other cases.

#### Section 2. Cause for Removal or Discharge.

The appointing authority may file written charges and other persons may file written charges with the appointing authority against any employee in the classified service.

The following are declared to constitute a breach of duty and to be cause for removal or discharge from the classified service of the City, though charges may be based upon causes other than those enumerated, viz: that any officer or employee -

- (a) Has been convicted in a court of record of a criminal offense involving moral turpitude; or
- (b) Has been guilty of immoral acts involving moral turpitude; or
- (c) Has intentionally or negligently been guilty of brutality, cruelty, or abuse of an inmate or prisoner of a city institution, or to a person in the legal care, custody or control of such employee; or
- (d) Has willfully violated any of the provisions of the Civil Service Law or of the rules of the Commission; or
- (e) Has been guilty of conduct unbecoming an officer or employee of the City; or
- (f) Has violated any lawful and reasonable official regulation or order, or failed to obey any lawful or reasonable direction made and given by his/her superior officer, where such violation or failure to obey amounts to an act of insubordination or a serious breach of proper discipline, or resulted or might reasonably be expected to result in

loss or injury to the City or to the public or to the prisoners or wards of the City; or

- (g) Has been intoxicated while on duty, or has had marijuana in his/her possession while on duty, or has had in his/her possession while on duty without lawful prescription a dangerous drug as defined by Section 3719.01 of the Ohio Revised Code; or
- (h) Has been guilty of acts which amount to an act of insubordination or disgraceful conduct, whether such acts were committed while on duty or off duty; or
- (i) Has caused inconvenience, annoyance, or alarm to the public or city officials, officers or employees by engaging in offensive conduct: or
- (j) Has solicited the vote of a member of the City Council for or against a proposed ordinance or resolution, or a proposed item in a budget, or an appropriation ordinance concerning his/her department, where such solicitation is charged and established to have been made elsewhere than at a public hearing of the City Council or some committee thereof; or
- (k) Is incompetent, negligent or inefficient in the performance of the duties of his/her position; or
- (l) Is so inefficient in the performance of the duties of his/her position that his/her performance evaluation, kept in accordance with the rules of the Commission, is rated unsatisfactory, and the facts on which marks contributing to such general average are found by the Commission from the evidence upon the investigation or hearing of such charges to be substantially true and to justify such marks; or
- (m) Has been (is) careless or negligent of the property of the City; or
- (n) Has failed to pay or make reasonable provisions for payment of his/her just debts due or owed by him/her, causing thereby annoyance to his/her superiors within the City administration; or
- (o) Has used or threatened to use or attempted to use political influence in securing promotion, leave of absence, transfer, change or grade, pay or character of work; or

- (p) Has aided or been in any manner concerned in assessing, soliciting or collecting money from any officer or employee in the service of the City for the purpose of making a gift to any public officer; or
- (q) Has been induced, has induced or has attempted to induce an officer or employee in the service of the City, to commit an unlawful act or to act in violation of any lawful and reasonable departmental or official regulation or order; or has taken any fee, gift or other valuable thing in the course of his/her work or in connection with it, for his/her personal use from any citizen, when such fee, gift or other valuable thing is given in the hope of expectation of receiving a favor or better treatment than that accorded other citizens; or
- (r) Has intentionally falsified an official record required to be kept by the City of Xenia in connection with his employment or has failed to report absences of himself/herself or others, from duty to his/her supervisor or superior officer; or
- (s) Has been absent from duty without leave contrary to the rules of the department or has failed to report after leave of absence has expired, or after such leave of absence has been disapproved or revoked and canceled. Provided, however, that if such absence or failure to report is excusable, the charges may be dismissed and the person reinstated in his/her former position unless such position has been filled in the meanwhile by the appointment of an eligible person, in which case the person's name shall be placed on the register of eligible for reinstatement in the order of his/her seniority; or
- (t) Is antagonistic in his/her attitude towards superior officers or fellow employees, criticizing orders or rules issued and policies adopted by his/her superior or so conducts himself/herself as to interfere with proper cooperation of employees of the City to the detriment of efficient public service; or
- (u) Has displayed disorderly conduct during work time or on employer's property, including fighting and threatening or abusing any other employee; or
- (v) Has committed acts during working time or on employer's property intended to destroy property or to inflict bodily harm, whether or not the destruction or injury occurs; or
- (w) Has in his/her possession, or attempts to bring, explosiveness or firearms on employer's property; or

- (x) Has been guilty of stealing at the workplace or during working hours. This includes, but not limited to, money, property, or other possessions or resources of the employer, coworkers, or other persons. Resources include significant amounts of supplies and services and the use of paid work time for non work-related activities.

Nothing contained in any of these rules shall interfere with the right and duty of the Head of a Department/Division to pursue removal or just discharge for any other reasonable and justifiable grounds.

Section 3. Suspension.

As provided in the City Charter and in the Ohio Revised Code, the appointing authority shall have the power for disciplinary purposes to suspend employees without pay for a reasonable period. Immediate notice together with reasons for such suspension shall be sent to the Commission.

Section 4. Reduction.

As provided in the City Charter and in the Ohio Revised Code, the appointing authority may for infraction of departmental rules and regulations of the Commission, or for conduct unbecoming a City Employee, inefficiency, or for other justifiable causes, reduce an employee to a lower grade. Immediate notice together with the reasons for such reduction shall be sent to the Commission.

Section 5. Resignation.

(a) Any person resigning from the service, after giving reasonable (at least two weeks) notice, may, within one year, make application for reinstatement to the eligible list for the same division and grade, which application shall be considered by the Commission on its merits and, if approved, the name shall be placed last on the existing eligible list for the position. Such application shall not be considered unless the applicant had been in the service not less than one year and passes the necessary physical examination when required.

(b) In the event that an employee or a large number of them, in any Department or Division, shall tender their resignations with the evident intent of embarrassing, hampering or disorganizing such branch of the service, it shall be regarded as insubordination and their reinstatement shall be governed by the provisions of these rules relative to reinstatement after dismissal.

Section 6. Due Process.

Employees who are facing termination, suspension without pay, reduction in rank or pay step are entitled to the following due process steps:

1. The employee will be presented with a written statement of the facts leading up to a recommendation for the action.
2. The employee will be given an opportunity to clarify any portion of the written statement of facts and recommendations.
3. The employee will be given an opportunity to address any facts of the case and to provide corrections to any error in the facts.

Nothing in these steps will preclude other rights specified by collective bargaining agreements or applicable state or federal law.

## **RULE 16**

### **TRANSFER**

#### Section 1. Transfer in Same Class

The transfer of an employee from one position to another position, in the same class and of the same title, may be made with the approval of the Commission upon receipt by them of a written recommendation signed by the Head of the Department from which transfer is to be made and the Head of the Department to which transfer is requested and approved by the appointing authority.

#### Section 2. Transfer Due to Incapacitation

Where an employee becomes incapacitated for the performance of essential duties, the Head of the Department/Division, with the approval of the appointing authority, may transfer the employee to a position in an equal or lower grade for which the employee has the ability to fill. A written report of such transfer shall be made to the Commission.

## **RULE 17**

### **LEAVE OF ABSENCE WITHOUT PAY**

A leave of absence without pay may be granted by the Head of a Department/Division, with the approval of the appointing authority, for the following causes and not otherwise:

#### **Section 1. Temporary Disability**

An employee has some temporary physical disability; provided, however, that no such leave shall be given for a period to exceed ninety (90) days unless such disability was caused by an injury without negligence on the part of the officer or employee, received in the performance of his/her duty, in which latter case the period may be extended with the approval of the Commission. The vacancy thus caused shall be filled, if necessary, by temporary appointment from the eligible register.

#### **Section 2. Study Leave**

An employee's request for leave of absence for the purpose of entering upon a course of training or study, or to engage in an investigation, calculated to improve the quality of his/her service can be given, but no such leave shall be given for a period to exceed one year. Where a leave of absence is given for more than ninety (90) days, the position shall be filled, if necessary, for that part of the period of leave in excess of ninety (90) days in accordance with other applicable sections of these rules.

#### **Section 3. Other Justified Leave**

An employee who has some special reason other than that above which is sufficient to constitute good reason for being given such leave; provided, however, that no such leave shall be given for a period to exceed ninety (90) days; and provided, however, that the acceptance of another position or engaging in other employment by the employee while on leave of absence shall at the option of the Commission be deemed a resignation.

#### **Section 4. Probationary Period Impact**

Leave of absence during the probationary period shall extend said probationary period the length of time necessary to equal the leave.

#### **Section 5. Minimum Service Required**

Leave of absence shall in no case be given within ninety (90) days after appointment, nor shall leave of absence be given within six (6) months after return from a leave of fifteen (15) days or more except in case of physical

disability. At the expiration of the leave of absence, the employee shall be restored to the position vacated by him when same was granted.

Section 6. Commission Notified

Whenever leave of absence without pay is granted, the same shall be promptly reported to the Commission in writing.

## **RULE 18**

### **LEAVE OF ABSENCE WITH PAY**

Chapter 260 of the Administrative Code of the Xenia Codified Ordinances, the Employee Benefits Manual, the various Collective Bargaining Agreements, and provisions of State and Federal Law shall govern leaves of absence with pay for sickness, vacation, injury, reserve and National Guard duty, funerals, personal absence, administrative leave during investigations and any other special reasons.

## **RULE 19**

### **FAILURE TO RETURN FROM LEAVE**

Failure of an employee to report at the expiration of any leave of absence, without consent of the appointing authority, shall automatically remove him or her from the service.

## <sup>13</sup>RULE 20

### LAYOFF PROCEDURES

Section 1. Introduction. The local authority for these procedures is prescribed by Section 124.40 of the Ohio Revised Code, entitled Municipal and Township Civil Service Commission.

The procedures outlined herein must be followed by the City of Xenia, Ohio, whenever a layoff of classified employees or abolishment of positions becomes necessary. Based primarily upon Section 124.321, Ohio Revised Code, these layoff procedures:

- (a) incorporate seniority and efficiency ratings to determine which employees will be laid off,
- (b) provide displacement procedures for "bumping down" into lower classes in the class series, and
- (c) establish systematic guidelines governing the recall of laid off and reduced employees.

Section 2. Order of Layoff. Any layoff of employees within a given classification must proceed in the following order (by type of appointment):

- 1st Seasonal employees - those hired for six (6) months or less.
- 2nd Temporary employees - those hired to fill a specific need, which may be relatively brief (a few weeks) or a relatively long (a few months) period.
- 3rd Provisional employees - those hired on a provisional basis until such time as a competitive examination is conducted, or  
Probationary employees - newly hired employees working a set period of time (probationary period) during which the appointee is evaluated prior to receiving permanent status in an authorized position.
- 4th Regular, permanent, part-time or full-time employees who have completed their probationary period, based on retention points.

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<sup>13</sup> Amended by CSC on 10/11/2010 (italicized text added; revisions in Sections 4, 6, 7, 8, 10, 11, and 13)

A regular, permanent, part-time employee may displace a full-time employee only if he/she has greater retention points and is willing to accept a full-time position.

Section 3. Abolishment of Position

Any position within the employment structure of the City may be abolished for any of the following reasons:

- A. A determination has been reached that the position is no longer necessary for the efficient operation of the City.
- B. A material change in duties or organizational structure.
- C. The lack of work or funds.

Section 4. Seniority/Pay Status

A. Laid off employees accepting reinstatement within two (2) years from the date of layoff retain all previously accumulated seniority *and when applicable, all classification seniority (Police and Fire classification series only)* for purposes of determining retention points *and classification retention points (Police and Fire classification series only)*. However, the layoff period shall constitute a break in service for purposes of determining employee fringe benefits.

B. Employees reinstated in accordance with these layoff procedures shall be reinstated at that step in the pay range equivalent to, but not to exceed the compensation received by said employee as of the date of layoff or reduction.

C. If, as the result of layoff or displacement, an employee is serving in a lower classification in the same class series, said employee's salary or wage shall be determined by the pay range assigned to that (lower) classification; equivalent to, but not to exceed the compensation received by said employee as of the date of layoff or reduction.

Section 5. Notification of Layoff and Recall.

A. Each employee to be laid off shall be given advance written notice of the layoff by the appointing authority stating the reasons therefore. Such written notice shall be hand delivered to the employee at work or mailed certified mail to the last address on file with the appointing authority. If hand delivered, such notice shall be given at least fourteen (14) calendar days before layoff and the day of hand delivery shall be the first day of the fourteen (14) day period. If mailed such notice shall be given seventeen (17) calendar days before layoff and the day of posting shall be the first day of the seventeen (17) day period.

B. Each employee recalled from layoff shall be notified of the offer of recall by certified letter. Each such employee shall be allowed five (5) calendar days from the receipt of the letter to notify the City of his/her intent to return to work and an additional fourteen (14) calendar days to return to active service, if employed; otherwise five (5) calendar days to return to work if unemployed.

C. If the employee declines the offer of recall, the next employee on the recall list shall be notified in accordance with the above paragraph.

D. In the event of extenuating circumstances (e.g. illness, injury, absence from the City or other good cause) preventing the employee from returning to work within the fourteen (14) day limit, the City may grant a reasonable extension, but not to exceed thirty (30) days.

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

#### Section 6. Computation of Retention Points.

Subject to final verification and approval by the Civil Service Commission, the appointing authority shall compute for each *affected* classification series of layoff the total retention points *and when applicable, total classification retention points (Police and Fire classification series only)* for each employee in that class series using the following formula:

A. Non-Sworn Personnel: Employees shall be assigned one (1) seniority point for each completed 520 hours (excluding overtime hours) of continuous service (13 full weeks or one-quarter year of service for a full-time employee). Therefore, a full-time employee would receive four (4) seniority points for each full year of continuous service. The calculation will be made as of the date of the Civil Service Commission meeting at which the retention point list is scheduled to be approved. Service that is less than full-time shall receive seniority points on a pro-rata basis.

*When an employee from the Police and Fire classification series is eligible to bump into a formerly held classification, other than within the Police and Fire classification series, his/her retention points shall be calculated based on total city-wide seniority points.*

These seniority points shall be added to a base-factor of one hundred (100) points, thus yielding total seniority points.

B. Sworn Personnel (Police and Fire classification series): Employees shall be assigned one (1) classification seniority point for each completed 520 hours (excluding overtime hours) of continuous classification service (13 full weeks or one-quarter year of service for a full-time employee). Therefore, a full-time employee would receive four (4) classification seniority points for each full

year of continuous classification service with the City. The calculation will be made as of the date of the Civil Service Commission meeting at which the retention point list is scheduled to be approved. Service that is less than full-time shall receive classification seniority points on a pro-rata basis.

Employees in the Police and Fire classification series shall retain their classification seniority points from the affected classification when calculating classification retention points in the next lower classification and so on. For example, a Police Captain has served two (2) years as a Captain. Due to the elimination of his/her position, he/she is bumped to the Police Sergeant classification where he/she previously served four (4) years. That Police Captain would have a total of six (6) classification seniority points when calculating his/her Police Sergeant classification retention points.

These seniority points or classification seniority points (Police and Fire classification series only) shall be added to a base-factor of one hundred (100) points, thus yielding total seniority points.

C. Using the chart below, employees shall be assigned efficiency points as determined by the rating on the most recent employee performance evaluation:

Employee Performance Evaluation	Efficiency Points
Rating	
Unsatisfactory	- 5
Satisfactory	+ 0
Outstanding	+ 0

D. Any employee who has not received a performance evaluation for completed City service shall be given no efficiency points toward his/her total retention points or total classification retention points (Police and Fire classification series only).

E. In no event shall a special performance evaluation be made for purposes of computing retention points or classification retention points (Police and Fire classification series only).

#### Section 7. Layoff Procedures.

Whenever it becomes necessary to reduce the number of employees in any Department, or abolish positions for reasons as provided in Section 3, the following procedures shall be applied:

A. All seasonal, temporary, provisional or probationary employees in affected areas *of layoff* shall be reassigned to appropriate positions in other areas or terminated prior to displacing any full-time permanent employees (see Section 2, Order of Layoff).

B. *Non-Sworn Personnel:* After determining the total retention points for which each affected employee is eligible, a layoff list shall be established which places the employee with the least number of retention points as first on the list, the employee with the second least number of retention points as second on the list, and so on. Thus, layoffs shall be based upon descending retention point order.

C. *Sworn Personnel (Police and Fire classification series):* After determining the total classification retention points for which each affected employee is eligible, a layoff list shall be established which places the employee with the least number of classification retention points as first on the list, the employee with the second least number of classification retention points as second on the list, and so on. Thus, layoffs shall be based upon descending classification retention point order.

D. *Non-Sworn Personnel:* If two or more employees have the same number of retention points, the order of placing their names on the layoff list shall be determined in the following sequence:

1. The employee with the greatest seniority as determined by his/her actual date of appointment (employment) to a provisional or probationary position with the City, shall be placed lower on the layoff list (that is, higher numerically) than the other employee(s) who have an equal number of retention points.
2. If their actual seniority is the same, the employee with the highest rating on his/her most recent performance rating shall be placed lower on the layoff list than the other employee(s).

E. *Sworn Personnel (Police and Fire classification series):* If two or more employees have the same number of classification retention points, the order of placing their names on the layoff list shall be determined in the following sequence:

1. *The employee with the greatest classification seniority as determined by his/her actual date of appointment to a provisional or probationary classification within the police and fire classification series with the City, shall be placed*

*lower on the layoff list (that is, higher numerically) than the other employee(s) who have an equal number of classification retention points.*

2. *If their actual classification seniority is the same, the employee with the highest score on the promotion exam shall be placed lower on the layoff list than the other employee(s).*
3. *If their actual classification seniority and promotional exam score is the same, then the employees' respective application date and time shall determine which employee shall be placed lower on the layoff list.*

D. Whenever a position in the classified service is abolished, the order of layoff must be followed and retention points *or classification retention points (Police and Fire classification series only)* must be applied within the affected class. Thus, the employee filling a position that is abolished may not be the person who is laid off as the result of the abolishment.

In the event an employee's position is abolished, said employee would be eligible to exercise bumping rights first within his/her job classification, by displacing the employee with least retention points *or least classification retention points (Police and Fire classification series only)* in the same classification, and shall continue if necessary to the next lower classification in the class series.

Thus, employees holding positions in the classified service which are abolished shall have the same rights as employees who are laid off.

E. Displacement (Bumping) Procedures. Employees who are to be laid off may elect to displace (or bump) employees with fewer retention points *or fewer classification retention points (Police and Fire classification series only)* in lower classes of the same class series. With the following limitations, this displacement will occur in the next lower class whenever possible starting with the employee in that class having the fewest retention points *or fewest classification retention points (Police and Fire classification series only)*.

1. If a full-time employee is required to bump a seasonal or temporary employee, the appointing authority must layoff the seasonal or temporary employee. The full-time employee may then bump the first available full-time employee in the series that has fewer retention points *or fewer classification retention points (Police and Fire classification series only)*. If no full-time positions are available, the employee may elect

to bump the seasonal or temporary employee rather than be laid off.

2. An employee can only be bumped by someone having more retention points *or more classification retention points (Police and Fire classification series only)*.

If, because of permanent status or number of retention points *or classification retention points (Police and Fire classification series only)*, no one in the next lower class can be bumped, the next lower class in the series will be considered. Employees who are bumped out of their positions will receive formal, written notices of displacement and layoff, and such employees may then bump other employees standing lower in the class series in the same manner and with the same limitations as described above.

To insure uniformity and impartiality throughout the bumping process, the following sequence will govern the bumping order:

1. That person having the most retention points *or most classification retention points (Police and Fire classification series only)* will begin the bumping process and will be followed by the other laid off employees in descending retention point *or classification retention point (Police and Fire classification series only)* order.
2. All employees in the original class(es) of layoff MUST exercise their bumping rights before any employees who are bumped may exercise theirs.
3. Next, the first employees to be bumped must exercise their bumping rights before anyone in the second round of bumping may exercise theirs, and so on throughout the bumping process.

The bumping order for a layoff class will be complete when no more employees standing lower in the series are eligible to be bumped. Displaced employees will also bump down in descending retention point *or classification retention point (Police and Fire classification series only)* order in the same manner.

No later than the fifth working day after receiving notice of layoff, laid off or displaced employees must notify the appointing authority in writing as to whether or not they wish to exercise the bumping right. Failure to notify the appointing authority within five (5) days will be considered a forfeit of the bumping right.

The bumping process occurs only within a single class series. Therefore, no one may bump across to another classification or class series unless the employee has previously held a permanent position in that classification, i.e., reversion to former classification.

F. The following options are available to employees who are to be laid off, and that affected employee having the greatest retention points or *greatest classification retention points (Police and Fire classification series only)* shall initiate the displacement process. No later than the fifth working day after receiving notice of layoff, laid off or reduced employees must notify the appointing authority in writing of their intent to exercise one of the following options:

1. OPTION 1 - the choice of bumping down into another position in the class series where he/she has greater retention points or *greater classification retention points (Police and Fire classification series only)*, and fulfills the minimum qualifications of the classification he/she chooses. The bumping process may be exercised only in the same or lower levels in the class series.

If the displaced employee chooses to bump into another employee's job classification in the same class series, then he/she must demonstrate within a reasonable period of time, not to exceed thirty (30) calendar days, that he/she can satisfactorily perform all job assignments in the new position. If not, he/she shall be reassigned (and would not be able to exercise bumping rights again) or, if no appropriate position is available, he/she shall be laid off.

2. OPTION 2 - Reversion to former classification: in the event of layoff from an employee's current classification, City employees who (a) possess permanent status in a former classification, and (b) have been appointed to their current position (in a similar or higher classification), shall have the right to be reinstated to a position in their former (lower) classification. To implement the above section, the employee in the lower classification with the least number of retention points or *least number of classification retention points (Police and Fire classification series only)* shall be laid off.

Thus, in a layoff situation, an employee would progress downward within the organization in a similar manner as he/she progressed upward.

3. OPTION 3 - displaced employees shall be offered all vacancies for which they are qualified.
4. OPTION 4 - the opportunity to choose layoff rather than bumping into an available position.

G. Employees who choose or are bumping into layoff shall be placed on a recall list, and shall be entitled to certain rights as provided in Section 8 below.

#### Section 8. Reinstatement Rights.

Any employee is entitled to have his/her name placed on the recall list who is laid off or displaced due to a layoff or readjustment of the work force, or abolishment of position(s). The provisions regarding the manner in which an employee's name is placed on the list, the duration of the list, and the removal of an employee's name shall be as follows:

A. Each employee who is eligible shall have his/her name placed on the recall list for return to the job classification from which he/she was displaced. A separate list shall be established for each class series. An employee's actual standing on the recall list shall be determined by retention points *or classification retention points (Police and Fire classification series only)*, beginning with that employee with the greatest number of points.

B. Each employee placed on the recall list shall remain on that list for two (2) years from the date he/her vacated his/her original position unless prior to the expiration date his/her name is removed due to one of the following reasons:

1. Reinstatement, reemployment and/or return to his/her original position.
2. Request in writing to be removed from the list.
3. Failure to remain qualified to perform the job requirements.
4. Failure to return to the original job when it is offered to him/her.

C. Vacancies, not filled by in-house transfers or promotion (see *Rule 14, Section 1*), which occur in the classification series of layoff must be offered to or declined in writing by the first person on the recall list for that

classification series before the next person on the list may be considered; provided that the vacancy is not in a class higher than that person's original class before layoff or reduction.

D. Any laid off full-time employee declining reinstatement to a seasonal, temporary or part-time position shall not be deemed to have declined reinstatement for purposes of this rule (see paragraph B above).

Section 9. Re-employment.

A. No person shall be eligible, after resignation, retirement or discharge of their employment with the City, to have his/her name placed on any recall list. Resignation in good standing shall entail the following: satisfactory attendance, satisfactory work performance and proper notification of the date of resignation. Persons discharged from City employment shall not be considered for re-employment unless, in the judgment of the appointing authority, circumstances have changed sufficiently to allow such consideration.

B. An employee who is laid off retains reinstatement rights to his/her original class series only; whereas laid off employees would be considered to have the same opportunity for the re-employment as active employees for vacancies in positions other than the position held by the laid off employee at the time of the layoff.

Section 10. Re-establishment of Abolished Positions.

If a position occupied by a classified employee, having been abolished under the provisions of Section 3, is recreated or re-established within one year, the last incumbent to that position may be reinstated to that position if he/she has sufficient retention points *or sufficient classification retention points (Police and Fire classification series only)* to warrant such consideration.

Section 11. Inspection of Layoff Lists.

Each appointing authority which lays off any employee(s) under these layoff procedures shall prepare and post for inspection a list containing the names, dates of appointment and retention points *or classification retention points (Police and Fire classification series only)* of all employees in that classification series prior to the exercise of any displacement rights by any affected employee.

Each appointing authority layoff list prepared under these layoff procedures shall upon request, be made available for inspection and copying to anyone during normal working hours. A reasonable charge for reproduction may be made.

Section 12. Layoffs During Leave.

A. Employees on sick leave, vacation leave, disability leave, military leave, or any leave of absence may be laid off as any other employee and retain only those reinstatement and reemployment rights as any other laid off employee.

B. The two (2) year reinstatement or reemployment right commences from the date of layoff or reduction, and shall include the term of authorized leave.

C. An employee offered reinstatement or reemployment while on leave need not be re-offered reinstatement or reemployment until the term of the leave expires, and the appointing authority may proceed to the next highest name on the layoff list.

D. A refusal of reinstatement or reemployment during leave shall not be grounds for removal of an employee's name from the layoff list(s).

Section 13. Remedy for Erroneous Layoff, Displacement, Reinstatement of Employment

Any employee who feels that he/she has been treated wrongfully or contrary to these layoff procedures, for any reason as listed below, may file a written appeal (see *Rule 21*) to the Xenia Civil Service Commission for further consideration:

- (1) He/she has been wrongfully laid off or displaced, contrary to these layoff procedures, if said employee has sufficient retention points or *classification retention points (Police and Fire classification series only)* to warrant such consideration.
- (2) He/she discovers that another laid off employee has been reinstated in any manner contrary to the listing of names on their appropriate recall list.
- (3) He/she discovers that the appointing authority has wrongfully or contrary to these procedures hired a new employee(s) into the classification series of layoff.

Section 14. Application of Layoff Procedures.

The layoff procedures outlined herein shall apply to any employee in the classified service with the City. These procedures shall not apply to the unclassified service and other employees as follows:

- (1) All officers elected by the people.

- (2) The City Manager, the Law Director, City Prosecuting Attorneys and Director of Finance.
  - (a) Secretary to the City Manager
- (3) Division and Department Heads.
- (4) Xenia Municipal Court employees.

Section 15. Classification Series.

The following list of positions in the classified service of the City establishes the method of layoffs within a classification series, from the highest level downward to the lowest level in that series. The displacement or bumping process occurs only within a single class series.

Each roman numeral designates an occupational group, whereas each numeric entry in that group denotes a single class series.

I. CLERICAL GROUP

- 1. Office Aide  
Clerk Typist  
Secretary
- 2. Finance Clerk – Accounts Receivable<sup>14</sup>
- 3. Human Resources Technician
- 4. Management Analyst/CMO<sup>14</sup>
- 5. Management Analyst/PS<sup>15</sup>

II. ADMINISTRATIVE & FISCAL GROUP

- 1. Information Technology Technician
- 2. Finance Clerk – Accounts Payable/Payroll<sup>14</sup>  
Finance Technician
- 3. Information Technology Analyst
- 4. Accounts Receivable Office Supervisor

III. DEPARTMENT OF LAW<sup>16</sup>

- 1. Victim Advocate

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<sup>14</sup> Amended by CSC on 04/16/2008 (added this position)

<sup>15</sup> Amended by CSC on 10/12/2009 (revised and added positions)

<sup>16</sup> Amended by CSC on 10/08/2018 (eliminated three positions and amended remaining title)

IV. RECREATION GROUP

1. Playground Leader
2. Recreation Program Specialist

V. ENGINEERING AND PLANNING AND ZONING GROUP<sup>17</sup>

1. Code Enforcement Officer
2. Construction Inspector
3. Zoning Enforcement Officer
4. Engineering Technician
5. GIS Analyst<sup>18</sup>
6. Engineering Project Manager<sup>19</sup>

VI. POLICE & FIRE GROUP<sup>20</sup>

1. Communications Operator II  
Communications Operator I
2. Fire Captain  
Fire Safety Inspector  
Fire Lieutenant  
Firefighter
3. Police Captain  
Police Sergeant  
Police Officer
4. Police Service Aide

VII. LABOR & CRAFTS GROUP

1. Non-Technical Class Series  
Laborer  
Maintenance Worker  
Water Meter Service Worker  
Equipment Operator  
Equipment Mechanic  
Equipment Operator II  
Electrician  
Maintenance Foreman
2. Technical Class Series  
Water Treatment Plant Operator II  
Water Treatment Plant Operator I

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<sup>17</sup> Amended by CSC on 11/14/2011 (Changes made to Groups V and VI)

<sup>18</sup> Amended by CSC on 01/11/2021 (added position)

<sup>19</sup> Amended by CSC on 04/12/2021 (added position)

<sup>20</sup> Amended by CSC on 10/08/2018 (eliminated positions)

Treatment Plant Lab Technician II  
Wastewater Treatment Plant Operator II  
Wastewater Treatment Plant Operator I  
Treatment Plant Lab Technician I  
Wastewater Treatment Semi-Tractor  
Trailer Driver

3. Supervision and Administration<sup>21</sup>  
Wastewater Treatment Plant Supervisor  
Water Treatment Plant Supervisor  
Public Service Maintenance Supervisor  
Equipment Mechanic Supervisor  
Public Service Supervisor – Facilities and Fleet  
Public Service Supervisor – Streets and Utilities

Based on total retention points, an employee in the Labor and Crafts group may displace the employee with the least retention points in the Labor classification.

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<sup>21</sup> Amended by CSC on 11/14/2016 (Public Service Supervisors for Facilities & Fleet and Streets & Utilities were added)

## <sup>22</sup>RULE 21

### APPEAL

In the case of reduction (*See Rule 15, Section 4*), suspension of more than three (3) working days, or removal/*discharge* by the appointing authority, an employee may, within ten (10) days following *the date* of such order, appeal the action of the appointing authority to the Civil Service Commission, by filing an appeal thereof in writing with the Clerk of the Commission. When an appeal is filed, the Civil Service Commission shall forthwith notify the appointing authority and shall hear the appeal of the employee within thirty (30) days from and after the date of *receipt* of the appeal. The Civil Service Commission may affirm, disaffirm or modify the action of the appointing authority.

*An employee may appeal a layoff, or a displacement that is the result of a layoff, to the Civil Service Commission. The appeal shall be filed or postmarked no later than ten (10) days after receipt, either by hand delivery or certified mail, of the layoff notice.*

In the event the order of the appointing authority is based upon acts involved in criminal proceedings in the courts, the Civil Service Commission may, in its discretion, continue the hearing on the appeal pending the termination of the criminal proceedings in the courts.

The Civil Service Commission shall also have jurisdiction to hear any employee's appeal from any entry on his/her personnel record or any matter affecting his/her status, after ten (10) days' written notice of such hearing has been served personally or by registered mail on the employee and his appointing authority. The determination upon such hearing shall be conclusive.

The appeal/procedural rules governing appeals before the Civil Service Commission are listed below:

#### **SECTION ONE: NOTICE OF APPEAL**

A. All appeals to the Xenia Civil Service Commission shall be in writing, and include the following information:

1. The Appellant's name, address and telephone number.
2. The name of the appointing authority.
3. A description or summary of the action which is being appealed.

B. Appellant shall have a continuing duty to notify the Xenia Civil Service Commission, in writing, of any change of address during the tendency of their appeal.

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<sup>22</sup> Amended by CSC on 10/11/2010 (*italicized text added; changes on this page only*)

## **SECTION TWO: EVIDENCE**

- A. Rules of Evidence  
The rules of evidence prevailing in civil actions in Ohio Courts of general jurisdiction are adopted for use in hearing before the Xenia Civil Service Commission, except as modified by these rules.
- B. Introduction of Evidence  
The Xenia Civil Service Commission may permit the introduction of evidence otherwise excludable as being hearsay. A foundation, establishing both the reliability of the testimony and its necessity, shall be laid before hearsay may be admitted.
- C. Cumulative Testimony  
The Xenia Civil Service Commission reserves the right to limit cumulative testimony.
- D. Stipulations  
Stipulations of facts between the parties shall be accepted by the Xenia Civil Service Commission for purposes of the appeal only when both parties consent to the stipulation.
- E. Witnesses  
(1) All witnesses at any hearing before the Xenia Civil Service Commission shall testify under oath or affirmation.  
(2) A witness may be accompanied and advised by legal counsel. Participation by counsel is limited to the protection of his or her client rights or interests. Counsel for a nonparty witness may neither examine nor cross-examine any witnesses.  
(3) Should a witness refuse to answer a question ruled proper at the hearing, or disobey a subpoena, the Xenia Civil Service Commission may institute appropriate action.
- F. Conviction of a Crime  
(1) Conviction of any crime in a Court of competent jurisdiction is conclusive evidence of the existence of all the elements of that crime. Conviction of any crime is not conclusive evidence that any disciplinary action taken by the appointing authority based upon that conviction is appropriate or lawful.  
(2) A conviction can be established only through certified copies of the original journal entry from the Court in which the conviction was obtained.  
(3) Evidence of the conviction of a crime is inadmissible into evidence unless identity is established between the crime and particulars alleged in the disciplinary action being litigated.

- G. Best Evidence Rule  
(1) A duplicate or copy may be admitted into evidence to prove the content of a document, recording or photograph unless (a) general question is raised as to the authenticity or the original, or , (b) in the circumstances, it would be unfair to admit the duplicate in lieu of the original.
- H. Disparate Treatment  
(1) The Xenia Civil Service Commission may hear evidence of disparate treatment between the appellant and other employees of the appointing authority for the purpose of determining whether work rules or administrative policies are being selectively applied by the appointing authority, or to determine whether the discipline of similarly situated employees is uniform. Request for discovery under this rule shall be limited to information relating to specific incidents or persons known to the employee or his representative.  
  
(2) Evidence of disparate treatment will be considered in evaluating the appropriateness of the discipline which was imposed.

### **SECTION THREE: GENERAL PROCEDURE**

- A. Denomination of the Parties  
The party filing appeal is denominated Appellant. All other parties are denominated Appellee.
- B. Notice of Hearings  
Notice specifying the date and time set for a hearing shall be mailed to the parties by ordinary U.S. Mail at least five (5) calendar days in advance of hearing
- C. Continuances  
(1) Upon its own Motion or the Motion of any party, the Xenia Civil Service Commission may continue any hearing.  
  
(2) Request for continuances shall be addresses to the Xenia Civil Service Board by and through its clerk. A request for continuance filed will not automatically stay the hearing, but must be expressly granted by the Xenia Civil Service Commission.  
  
(3) Requests for continuance shall be received in writing at least three (3) calendar days prior to any scheduled hearing. Exceptions to this time limitation may be made in the sound discretion of the Xenia Civil Service Commission.

- (4) Each party shall contact any or all witnesses he has subpoenaed and inform them of any continuance. The party requesting the continuance must make reasonable attempts to notify the opposing party or his counsel prior to making the request. The party requesting the continuance shall notify the Xenia Civil Service Commission of the opposing party's position on a continuance. Failure to notify the opposing party of his counsel of a continuance which has been granted may be treated as a failure to appear by the party requesting the continuance if the opposing side appears for the hearing and is ready to proceed with said hearing.
- (5) Any appeal, based upon an incident which resulted in criminal prosecution, shall be continued on the Motion of the affected employee until a verdict is rendered in such criminal prosecution. Both parties shall be responsible for notifying the Xenia Civil Service Commission when the final Judgment of the criminal prosecution has been issued.
- (6) Absent compelling circumstances, hearing shall not be continued due to the unavailability of a subpoenaed witness. The Xenia Civil Service Commission may hold the record open or accept a testimonial deposition in lieu of oral testimony. The cost of testimonial depositions taken under this rule shall be born by the party calling the witness.

D. Consolidation

If two or more appeals involve substantially identical issue of fact and law, the Board may consolidate them into a single hearing, upon its own Motion or the Motion of any interested party.

E. Appearances

- (a) Any party, unless prohibited by law, may represent himself or may be represented before the Xenia Civil Service Commission by any representative whom he authorizes to appear on his behalf.
- (b) Provided a party has not been subpoenaed and has authorized his representative to represent him in all facets of a hearing before the Xenia Civil Service Commission, the party is not required to appear personally at any hearing.
- (c) All representatives of any party at a hearing shall enter their appearances in writing.

(d) Any person who has entered an appearance as the representative of any party is that party's representative of record until and unless a written withdrawal is filed with the Xenia Civil Service Commission.

E. Motions

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

(b) All motions, together with supporting documentation, if any, shall be served upon the opposing party.

(c) Motions to Dismiss an Appeal shall be supported by affidavits made on personal knowledge, setting forth facts as would otherwise be admissible in evidence. Affidavits shall demonstrate 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, as adverse party may not rest upon 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.

(d) Procedural motions, not determinative of the final outcome of an appeal, may be acted upon at any time after receipt by the Xenia Civil Service Commission, without awaiting a response from the opposing party. A party adversely affected by any ruling on any motion may move the Xenia Civil Service Commission for appropriate relief.

F. Briefs

(a) At any time prior to an issuance of a final Order and Appeal, the Xenia Civil Service Commission may require from the parties, a brief. Briefs shall address questions put to the parties by the Xenia Civil Service Commission and shall be filed within the time limits set by it.

(b) The Commission may limit both the number of reply briefs and the time for their preparation and filing.

(c) If a party fails to submit a brief within the time limit, the Xenia Civil Service Commission may exclude that brief from its consideration in any appeal.

- G. Filing of papers  
A document is filed when it is received and time stamped in the office of the Clerk of the Xenia Civil Service Commission.
- H. Procedural Orders  
Any procedural order may be issued by the Xenia Civil Service Commission at any time prior to the issuance of a final order, governing the procedure on appeal.
- I. Procedure in Hearings  
(a) The Xenia Civil Service Commission may determine the order in which the hearing shall proceed.  
(b) Either party may call the opposing party as if on cross-examination.  
(c) The Xenia Civil Service Commission may require, limit or eliminate opening statements and closing arguments.  
(d) Copies of all exhibits shall be made available to the Xenia Civil Service Commission as they are identified and offered into evidence. Parties must exchange documents and exhibits prior to the hearing. Hearings will not be delayed to facilitate the exchange of documents or a review of documents or exhibits.  
(e) The parties are encouraged to discuss all stipulations of fact and possibilities of settlement prior to commencement of the hearing.
- J. Subpoena  
(a) Upon the request of either party, the Xenia Civil Service Commission shall issue a subpoena for such person and documents as the requesting party deems necessary to prove its case. If the party deems it necessary to subpoena more than five (5) witnesses, the prior approval of the Xenia Civil Service Commission is required. In such instances, the party requesting the subpoena shall submit a written list of witnesses and a summary of witnesses' testimony prior to the issuance of the subpoenas.  
(b) Subpoenas shall be issued either of two ways:  
(1) The Xenia Civil Service Commission shall supply subpoenas to the parties, who are responsible for serving them.  
(2) In other cases, subpoenas will be served by certified mail, return receipt requested.

(c) To be enforceable, witnesses must receive their subpoenas at least two (2) calendar days prior to the hearing for which they are to appear.

K. Witness Fee and Reimbursement

(a) Witness fee and reimbursement for expenses in connection with the attendance of a witness shall be born solely and exclusively by the party requesting the attendance of such witness by subpoena. The Xenia Civil Service Commission does not pay witness fees, mileage reimbursement, or any other costs and expenses associated with the attendance of a witness.

L. Failure to Appear

(a) If neither the Appellant nor his/her authorize representative appears at any hearing, the Xenia Civil Service Commission may dismiss the appeal.

(b) If neither the Appellee nor his/her authorized representative appears at any hearing the Xenia Civil Service Commission may grant appropriate relief, including disaffirmments of the Decision appealed from.

(c) If neither party appears at a hearing, the Commission may, based upon the information available to it, resolve the appeal in any manner it deems appropriate.

M. Settlement and Withdraw of Appeal

(a) An appellant may withdraw his appeal at any time prior to the issuance of a final order. All withdraws must be in writing and signed by both the Appellant and his/her representative.

(b) If the parties settle any appeal by agreement, a copy of the settlement must be filed with the Xenia Civil Service Commission within fourteen (14) days after the date scheduled for hearing.

N. Discovery

(a) Generally, discovery shall proceed between the parties in accordance with Rule 26, et. seq of the Ohio Rules of Civil Procedure, which are incorporated herein by reference and include herein as part hereof for all purposes unless clear and consistent with some other rules.

## **RULE 22**

### **AMENDMENTS TO RULES AND REGULATIONS**

Rules, regulations and resolutions of determination heretofore adopted by the Civil Service Commission shall not be subject to the approval of City Council.