

Memorandums of Understanding

between

The Fraternal Order of Police,
Lodge No. 3

(Patrolmen and Sergeants & Above)



And

The City of Lorain, Ohio



**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF LORAIN, OHIO AND
THE FRATERNAL ORDER OF POLICE LODGE 3
(Patrolmen, Sergeants & Above)**

Whereas, in accordance with the provisions of ARTICLE 40.4 of the Collective Bargaining Agreement, the following MOU is hereby agreed to by the authorized representatives of the City of Lorain, Ohio and the Fraternal Order of Police Lodge 3

Whereas, the Union and the City are parties to a Collective Bargaining Agreement; and

Whereas, Article 24, Educational Reimbursement sets forth the various bargaining unit educational incentives; and

Whereas, Section 24.4 states: "The City shall reimburse up to a maximum of \$20,000.00 per year to employees any cost for tuition upon successful completion of courses taken in the field of Criminal Justice/crime related fields of study as defined in Section 24.2. For purposes of this Section "satisfactory completion of course work" shall mean the employee receiving a passing grade of "C" or better or a grade of 2.0 or better on a 4.0 grading scale."; and

Whereas, the parties to this memorandum desire to enter into an agreement for the reimbursement pay basis of said incentive based on the currently CREDIT HOUR cost at Lorain Community College;

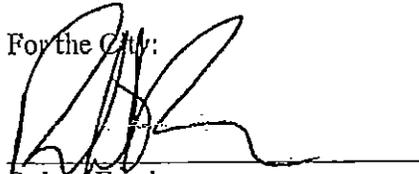
NOW, THEREFORE, the parties agree in this Memorandum of Understanding that when a member of the FOP bargaining unit qualifies for reimbursement under Article 24 they shall be reimbursed at the current Lorain County Community College rate for classes at the credit hour rate charged by the college which is currently One Hundred Ten and 65/100 Dollars (\$110.65). The current rate schedule is attached hereto and included as if fully rewritten and marked Exhibit "A";

FURTHER, the parties agree and understand that the credit hour published by Lorain Community College is subject to change and that the reimbursement is based on the rate as charged by Lorain Community College at the time the class is taken by the FOP member.

This is a non-precedent setting Memorandum of Understanding between the City of Lorain, ~~THE FRATERNAL ORDER OF POLICE LODGE 3~~

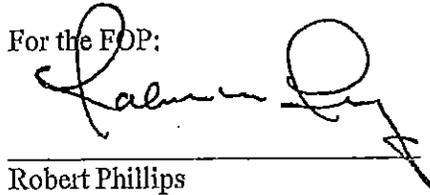
Agreed to this 20th day of July, 2012.

For the City:

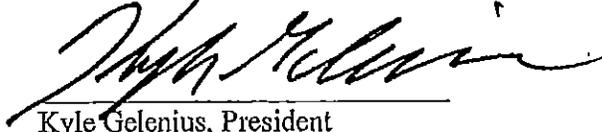


Robert Fowler,
Director of Public Safety/Services

For the FOP:



Robert Phillips
Attorney for FOP Lodge #3



Kyle Gelenius, President
FOP Lodge #3



MEMORANDUM OF UNDERSTANDING

It is hereby agreed by and between Fraternal Order of Police, Lodge 3 and the City of Lorain to incorporate the following language in Article 12 Promotions of the parties' collective bargaining agreement:

"In promotional examinations, seniority in service shall be added to the examination grade, but no credit for seniority or any other reason shall be added to an examination grade unless the applicant achieves at least the minimum passing score on the examination without counting that extra credit. Credit for seniority shall equal, for the first four years of service, one per cent of the total grade attainable in the promotion examination, and for each of the fifth through fourteenth years of service, six-tenths per cent of the total grade attainable."

FOR THE CITY:

[Handwritten signature of Robert M. Fowler]

Robert M. Fowler
Safety Service Director
City of Lorain, Ohio

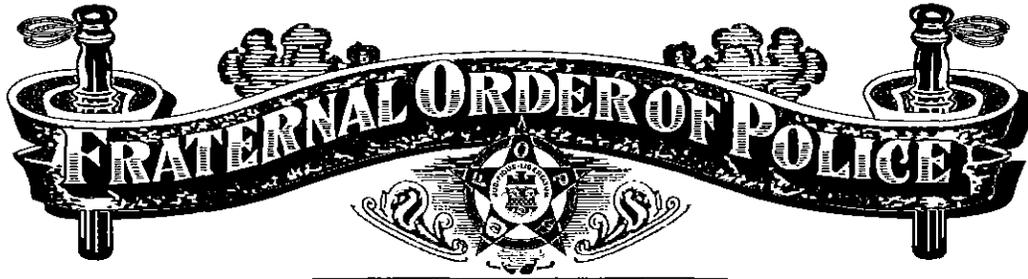
11-11-12
Date

FOR THE FOP:

[Handwritten signature of Kyle J. Gelenius]

Kyle J. Gelenius
President
Fraternal Order of Police, Lodge 3.

11-1-12
Date



LORAIN LODGE No. 3

OHIO

MEMORANDUM OF UNDERSTANDING

It is hereby agreed by and between Fraternal Order of Police, Lodge 3 and the City of Lorain to incorporate the following language in Article 6 "Union Representation" of the parties' collective bargaining agreement:

"Delegates appointed by the Union, not to exceed three (3) in number off duty at any one time, shall be granted time off with no loss of pay not to exceed the maximum of twenty (20) eight hour duty days per year, in order to perform their Union functions, including, but not limited to, attendance at conventions, conferences, and seminars. The Union President shall provide forty-eight (48) hour advance notice."

FOR THE CITY:

Robert M. Fowler
Safety Service Director
City of Lorain, Ohio

Date

11-14-12

FOR THE FOP:

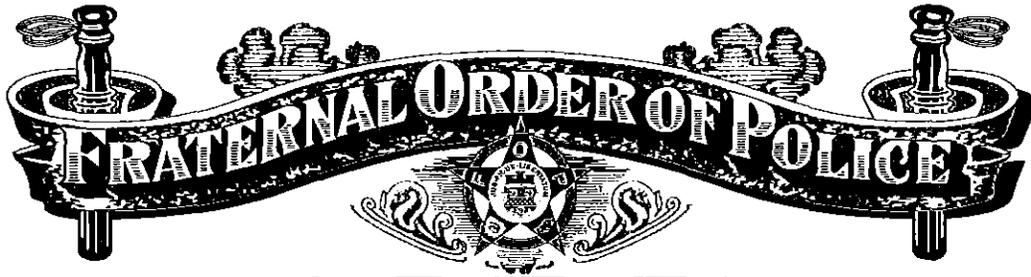
Kyle J. Gelenius
President
Fraternal Order of Police, Lodge 3.

Date

11-14-12

"First In Ohio"

100 West Erie Avenue — Lorain, Ohio 44052



LORAIN LODGE No. 3
OHIO

MEMORANDUM OF UNDERSTANDING

It is hereby agreed by and between the Fraternal Order of Police, Lodge No. 3 and the City of Lorain to incorporate the following language in Article 11 "Discipline/Corrective Action" of the parties' collective bargaining agreement:

"Section 11.8: Media: When a department member is charged with or is under investigation for alleged violations of departmental rules and regulations, reasonable efforts consistent with applicable law shall be made to withhold publication of the officer's name and the extent of the disciplinary action taken or contemplated until such time as final inter-departmental ruling has been made and served upon the officer. If any of the aforementioned are leaked to the media, it will not negate the Employer's right to proceed with the matter at hand. However, the Employer agrees to make reasonable efforts to formally investigate the unauthorized disclosure of information. Further, the Union understands the Employer's obligations under Ohio Public Records laws and shall not cause or expect the Employer to violate its statutory obligations.

The release of photographs or personal information about any officer in relation to departmental matters shall not be provided to any news or related service without consent of the subject officer.

Members of the bargaining unit shall be notified of third party request to review their personnel files."

FOR THE CITY:

Robert M. Fowler
Safety Service Director
City of Lorain, Ohio

12-5-12
Date

FOR THE FOP:

Kyle J. Gelenius
President
Fraternal Order of Police, Lodge 3

12-5-12
Date

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LORAIN CIVIL SERVICE COMMISSION
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LOCAL RULES OFⁱ
THE CITY OF LORAIN, OHIO

RULE I – DEFINITIONS

SECTION 1.1 - Except as herein otherwise provided all terms used herein have the same meanings as that attributed to the same terms in Chapter 124 of the Revised Code of Ohio and Chapter 123 of the Ohio Administrative Code.

SECTION 1.2 - As used herein the following terms shall be construed as follows:

- (a) "Commission" shall mean the Civil Service Commission of the City of Lorain, Ohio.
- (b) "Commissioner" shall mean a member of the Civil Service Commission of the City of Lorain, Ohio.
- (c) "Civil Service" includes all officers and positions of trust or employment in the service of the City of Lorain, Ohio, the City Health District of the City of Lorain, Ohio, and the School District of the City of Lorain, Ohio.
- (d) "Municipal Service" shall include those positions in the classified service of the City of Lorain, Ohio.
- (e) "Health Service" shall include those positions in the classified service of the City Health District of the City of Lorain, Ohio.
- (f) "School Service" shall include those positions in the classified service of the City school District of the City of Lorain, Ohio.
- (g) "Unclassified Service" shall comprise those positions set forth in Paragraph 124.11. (A) of the Revised Code of Ohio as applied to the Municipal Service and, without limiting the generality thereof, shall include the following heads of departments:
 - (1) Director of Public Service
 - (2) Director of Public Safety
 - (3) Clerk of Council
- (h) "Classified Service" shall comprise all persons in the employ of the City of Lorain, Ohio, the City Health District of the City of Lorain, Ohio and the City School District not specifically included in the Unclassified Service. The classified service shall be divided into the "competitive class" and the "unskilled labor class."
 - (1) The competitive class shall include those positions and employments specified in Section 124.11 of the Revised Code of Ohio.
 - (2) The unskilled labor class shall include those positions and employments specified in Section 124.11 of the Revised Code of Ohio.
- (i) "Position Classification" shall refer to the arrangement of positions into classes including sub-classes within each class. Positions shall be classified in accordance with the duties and responsibilities of the position.

- (j) "Position" when used by itself shall refer to any specific office, employment or job calling for the performance of duties and the exercise or responsibility by one individual.
- (k) "Appointing Authority" shall mean the officer, Commission, or board or body having the power of appointment or removal from positions in the classified service.
- (l) "Employee" shall mean any person holding a position subject to appointment, removal, promotion or reduction by an appointing officer.
- (m) Wherever used herein the masculine gender shall be construed to include the feminine gender.
- (n) Wherever used herein the singular may include the plural and vice versa.
- (o) "Entrance Examination" shall mean an examination given by the Civil Service Commission of the City of Lorain, Ohio for an original appointment.
- (p) "Promotional Examination" shall mean an examination by the Commission to fill a vacancy to a classification superior to that held by an employee and to which such employee shall be eligible for appointment.
- (q) "Applicant" shall mean any person applying for and/or taking an entrance or promotional examination for appointment to or promotion in the Civil Service.
- (r) "Civil Service Law" shall mean the provisions of Law in Chapter 124 of the Revised Code of Ohio, entitled 'Civil Service Laws.'

RULE II - ADMINISTRATION

SECTION 2.1 - COMPOSITION

The Municipal Civil Service Commission of the City of Lorain, Ohio, shall be composed of three (3) members who shall be appointed and shall serve in the manner provided in Section 124.40 of the Revised Code of Ohio.

SECTION 2.2 - DUTIES OF COMMISSION

(a) Attendance - It shall be the duty of each member of the Commission to attend all meetings of the Commission and to devote as much time as is necessary to the management of the business and the affairs of the Commission.

(b) Other Duties - The Commission shall administer and enforce the Civil Service Laws of the State of Ohio and the rules and regulations herein prescribed relative to Civil Service, including Chapter 123 of the Ohio Administrative Code.

SECTION 2.3 - OFFICERS

The Commission shall elect one of its members as President, one member as Vice President and one of its members as Secretary. No one person shall hold more than one office. Such officers shall be elected at the first meeting held in January of each year and shall hold office for a period of one year and until their successors are duly elected and qualified. A vacancy in any office shall be filled by the Commission at any regular meeting or at a special meeting called for such purpose.

SECTION 2.4 - PRESIDENT

It shall be the duty of the President to preside at all meetings of the Commission, to authenticate the minutes of all actions taken and meetings held by the Commission and, with the Secretary, to sign all warrants or orders for the payment from the account and funds of the Commission, and to perform such other duties as may be prescribed by law, these Rules or the Commission.

SECTION 2.5 – VICE PRESIDENT

It shall be the duty of the Vice President to preside over meetings of the Commission in the absence or disability of the President, to perform the duties of the President, and to perform such other duties as may be prescribed by law, these Rules or the Commission.

SECTION 2.6 - SECRETARY

The Secretary shall keep the minutes of the meetings, shall sign all minutes of meetings of the Commission and records of actions taken thereat; shall accurately and properly keep all records of the Commission, files, papers and other documents required to be kept by the Commission by law or by these Rules; shall maintain an official roster; shall certify payrolls; shall handle correspondence; shall, in connection with the President or Vice President; sign all warrants or orders for payment of money on behalf of the Commission, and do and perform such other duties as may be required by law, by these Rules or by the Commission.

SECTION 2.7 - REGULAR MEETINGS

Regular meetings of the Commission shall be held at such times as the Commission by resolution may determine, at the office of the Commission at the City Hall of the City of Lorain, Ohio, or at such other places as the Commission may determine.

SECTION 2.8 - SPECIAL MEETINGS

The President may, upon his own initiative, and shall, upon the request of the other two members of the Commission stating the purpose thereof, call special meetings of the Commission to be held not later than 3 days after the date of the notice of any such meeting. At any special meeting such business only shall be transacted as is stated in the notice of the meeting.

SECTION 2.9 - QUORUM

Two members of the Commission shall constitute a quorum. In the absence of a quorum, the one member of the Commission attending any such meeting may adjourn the same until a later date.

SECTION 2.10 - VOTE REQUIRED FOR ACTION

Except as a unanimous vote may be required by law or by resolution of the Commission, all actions of any nature shall be taken by the Commission upon the concurrence of at least two members thereof; all votes shall be by voice vote and recorded in the minutes or record.

SECTION 2.11 - CONDUCT OF MEETINGS

(a) Rules of order - Unless otherwise determined by the Commission, all meetings of the Commission shall be governed by Roberts' Rules of order.

(b) Order of Business - Unless otherwise prescribed by the Commission, the order of business for meetings of the Commission

- (1) Roll Call
- (2) Disposition of Minutes
- (3) Correspondence
- (4) Reports
- (5) Old Business
- (6) New Business
- (7) Adjournment

RULE III – POSITION CLASSIFICATION

SECTION 3.1 - METHOD

(a) All Civil Service positions shall be classified in accordance with an established plan which shall provide that any and all positions whose duties, responsibilities and necessary qualifications are sufficiently alike to so warrant, shall be allocated to the same class, (including sub-classes within a class), with a title which shall be descriptive of the duties performed, and with a salary range which will compensate each employee assigned to the class or sub-class on a like basis.

(b) Regular part-time employee may upon the approval of the Commission be included in the classified service.

Intermittent, seasonal and temporary positions will not be included in the classified service. Intermittent, seasonal, and temporary positions are defined as those positions in which the employees do not work more than 560 hours per calendar year. School crossing guards will be exempt from classification.

SECTION 3.2 - CLASS SPECIFICATIONS / JOB DESCRIPTIONS

(a) A class specification shall be prepared for each class and sub-class within a class, setting forth the class title, salary range, typical duties and responsibilities and the necessary qualifications. It shall set forth the factors and conditions which are essential characteristics of the class and also factors and conditions which separate it from other classes.

(b) All job descriptions developed for all positions, within the classified service, shall be approved by the Civil Service Commission prior to their adoption and implementation. Job descriptions may be revised by the commission upon request of an appointing authority, or by their initiative after consultation with the appropriate appointing authority.

SECTION 3.3 - DESIGNATION OF EXEMPTIONS

(a) Within sixty (60) days after taking office, each elective officer and each principal appointive officer, board, commission, or body having the power of appointment top or

removal from, positions in any office, department, commission, board or institution, shall designate the position for which exemption from the competitive classified service is claimed under the provisions of Section 124.11, (A) (8) Ohio Revised Code, and thereafter no change in the designation of exemptions claimed under this provision which would result in the separation of a classified employee from the service shall be made during the incumbency of such officer, board, or commission, except after the filing of a statement of reasons for such proposed change satisfactory to the commission and thirty (30) days notice thereof in order that a proper eligible list, if none is available, may be created by competitive examination from which to fill any position classified as the result of such change. If, at the expiration of sixty (60) days after taking office, exemptions have not been designated by the appointing officer, board, or commission as herein provided, the exemptions theretofore designated and in effect under this provision of the law shall be considered the exemptions claimed by such appointing authority if a reorganization of his agency occurs during his term of office as a result of legislative action.

(b) Within sixty (60) days after the adoption of subsection (A) of this rule each elective officer and each principal appointive officer, board, or commission may designate such personal exemptions under this rule, providing they have not been previously designated.

RULE IV - APPLICATIONS

SECTION 4.1 – GENERAL REQUIREMENTS

(a) Citizenship and Residence - Applicants shall be citizens of the United States or have legally declared their intention of becoming a United States Citizen. All applicants must be residents of the State of Ohio, in order to be eligible to apply for all positions within the classified service of the City of Lorain. Upon employment with the City and completion, of the applicable probationary period, all classified employees shall then be subject to the residency requirements, if any, as set forth in the applicable collective bargaining agreements and Lorain City Council Ordinances. This residency rule shall be effective as of May 1, 1993 and shall supersede all other rules of the Commission to the contrary.

(b) Filing - Any person desiring to make application for admission to any competitive examination given by the Commission under Civil Service Law or under these Rules shall file with the Commission an application for admission to such examination up to the last day prior to the proposed examination.

(c) Contents of Entry Level Application – Such application **shall be available on-line and/or in person** and shall contain the following information relating to the applicant:

- (1) Full name, residence and post office address;
- (2) Home and work phone numbers.
- (3) Drivers license information.
- (4) Business employments and residences **pursuant to the application.**
- (5) Such other information as may be reasonably required and pertinent.

(d) Additional information regarding promotional application.

(e) Prohibited Inquiries - Provided that no inquiry shall be made as to any religious or political opinions or affiliations of the applicant; not as to any race or national origin.

(f) Application Blanks - Blank forms for application shall be **available on-line and/or in person and** furnished by the Commission without charge to any person requesting the same. The Commission may require that such applications be accompanied by the Certificates and material concerning the applicant as is authorized by Section 124.25 of the Revised Code.

SECTION 4.2 - REFUSAL TO EXAMINE

(a) The Commission may refuse to appoint or examine an applicant or, after examination refuse to certify the applicant as eligible who is found to lack any of the established preliminary requirements for the examination, who is addicted to the habitual use of intoxicating liquors or drugs to excess, who has a pattern or poor work habits and performance with previous employers, who has been convicted of a felony, who has been guilty of infamous or notoriously disgraceful conduct, who has been dismissed from either branch of the civil service for delinquency or misconduct, or who has made false statements of any material fact, or practiced, or attempted to practice any deception or fraud in the application or examination, in establishing eligibility, or securing an appointment, or is not able to perform the duties of the position which he seeks, or for any other reason and cause specified in the Civil Service Law or these Rules which would authorize the Commission to exclude, or remove him, from an eligible list including, without limiting the generality of cause for exclusion, the following:

(1) That the applicant lacks any of the minimum qualifications set forth in the official classification.

(2) That the applicant is not within the prescribed age limits.

(3) That the applicant does not meet the physical requirements of the position to which he seeks appointment, is addicted to the excessive use of drugs, or intoxicating beverages, has been guilty of a crime or of disgraceful conduct, or has been dismissed from previous employment for flagrant delinquency or misconduct.

(4) That the applicant has intentionally made a false statement in his application with regard to any material fact.

(5) That the applicant was previously in the classified service in the same or any type of employment and was removed for cause or did not resign in good standing.

(6) That the applicant after notification did not promptly present himself at the time and place designated for the examination.

(7) An applicant who has competed in a civil service examination may not repeat that examination or take an examination for the same classification within six months from the date of original examination, unless an alternative form of examination is given, or unless other standards are specified in the examination announcement, provided that the Commission may waive in writing this rule upon written request from an applicant stating substantial reasons for granting such waive.

(b) Upon rejection of an application, the applicant shall have an opportunity to show cause why his application should not have been rejected.

SECTION 4.3 - SPECIAL REQUIREMENTS IN POLICE AND FIRE DEPARTMENTS

(a) Police Department - In addition to any other requirements of eligibility for admission to an examination or for appointment subsequent to examination, all applicants for original appointment to the Police Department as a policeman or policewoman shall comply with the requirements of Section 124.41 of the Revised Code and Ordinances of the City of Lorain, Ohio.

(b) Age requirements - No person shall be eligible to make application for examination for Police Officer in the Lorain Police Department, subject to the civil service laws of this state unless he will reach the age of twenty-one (21) upon the establishment of the eligibility list. Pursuant to ORC 124.41 and Lorain City Council Ordinance 44-98, no person shall be eligible to receive an original appointment to the position of Police Officer unless he or she has not reached the age of thirty-five. Applicants must possess a High School Diploma or GED and a valid Ohio Driver's license at time of application.

(c) Fire Department Qualifications -No person shall be eligible to receive an original appointment as a firefighter in a fire department, subject to the civil service laws of this state, unless the person has reached the age of eighteen and has, not more than one hundred twenty days prior to receiving such appointment, passed a physical examination, given by a licensed physician, a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife, certifying that the applicant is free of cardiovascular and pulmonary diseases, and showing that the person meets the physical requirements necessary to perform the duties of a firefighter as established by the civil service commission having jurisdiction over the appointment. The appointing authority shall, prior to making any such appointment, file with the Ohio police and fire pension fund a copy of the report or findings of said licensed physician, physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife. The professional fee for such physical examination shall be paid by the City of Lorain. No person shall be eligible to receive an original appointment on and after the person's forty-first birthday.

Notwithstanding this section, a municipal council may enact an ordinance providing that a person between the age of eighteen and forty may receive an original appointment to the fire department, or the board of trustees of a civil service township may do so by resolution. Nothing in this section shall prevent a municipal corporation or civil service township from establishing a fire cadet program and employing persons as fire cadets at age eighteen for the purpose of training persons to become firefighters. The board of trustees of a civil service township may establish by resolution such a cadet program. A person participating in a municipal or township fire cadet program shall not be permitted to carry or use any firearm in the performance of the person's duties. Applicants must possess a high school diploma or GED and a valid Ohio Driver's license at time of application.

RULE V - EXAMINATIONS

SECTION 5.1 - TIME AND PLACE

(a) Examinations shall be held at such times and places, as the Commission deems advisable and shall be administered under its direction. Examinations may be postponed by order of the Commission which shall state the reasons therefore. Notice of such new date shall be given to applicants who have filed applications prior to postponement and in addition thereto, shall be published as hereinafter.

(b) The Commission recognizes the state statutes requiring the Board of Education to provide adequate facilities for administering Civil service examinations. The Commission also recognizes "adequate facilities to include the subject facilities and any and all personnel the School Board may deem necessary for the utilization of said facilities. Accordingly, all monetary compensation for such personnel shall be provided for by the School Board.

SECTION 5.2 - NOTICE OF EXAMINATION

(a) Entrance Examinations - Notice of competitive entrance examinations shall be given by notice published in the Lorain (Ohio) Morning Journal or any other newspaper of general circulation in the City of Lorain, Ohio once a week for two consecutive weeks beginning not less than 15 days, prior to the date of examination and by posting notices conspicuously in the Department in which appointment is to be made, and in such other places as may be deemed advisable, not less than 15 days prior to such examinations.

(b) Promotional Examinations - Notice of competitive promotional examinations shall be given by posting the position in conspicuous places in Departments whose employees may be interested or eligible for promotion, Such notice shall be given not less than two weeks prior to the examination and or selection process.

(c) Contents - Notices of each examination shall contain notice of the time, place and general scope of such examination and such other information as is required by law or these Rules.

(d) Postings will be sent to each job site of eligible employees for promotional exams, and eligible employees will initial the notice to indicate they have been informed of the exam. If an eligible employee is on vacation he/she will be personally notified of the exam by the appointing authority or his/her representative, two weeks before the exam.

SECTION 5.3 - ADMITTANCE TO EXAMINATIONS

(a) Entrance Examinations - Entrance examinations shall be open to all persons except as hereinafter prescribed, whether or not such person is an employee of the Municipal, Health or School Service.

(b) Promotional Examinations - Promotional examinations shall be open only to those employees eligible for promotion to the position for which such examination is conducted, as determined by the Commission.

(1) Promotional examinations in the Police Department shall be open only to those applicants with experience as follows:

(i) An applicant for promotion to Sergeant shall have had total service as a Police Officer in the Police Department of the City of Lorain, Ohio of not less than three (3) years prior to the date of examination.

(ii) An applicant for promotion to Lieutenant shall have had total service as a Sergeant in the Police Department of the City of Lorain, Ohio of not less than one (1) year prior to the date of examination.

(iii) An applicant for promotion to the rank of Captain shall have had total service as a Lieutenant in the Police Department of the City of Lorain, Ohio of not less than one (1) year prior to the date of examination.

(iv) An applicant for promotion to the rank of Chief shall have had total service as Captain in the Police Department of the City of Lorain, Ohio of not less than one (1) year prior to the date of examination.

(2) Promotional examinations in the Fire Department shall be open only to those applicants with experience as follows:

An applicant for promotion to Lieutenant shall have had total service as a fire fighter in the Fire Department of the City of Lorain, Ohio of not less than sixty (60) months prior to the date of examination.

(ii) An applicant for promotion to Captain shall have had total service as a Lieutenant in the Fire Department of the City of Lorain, Ohio of not less than one (1) year prior to the date of examination.

(iii) An applicant for promotion to Assistant Chief shall have had total service as a Captain in the Fire Department of the City of Lorain, Ohio of not less than one (1) year prior to the date of examination.

(iv) An applicant for promotion to Chief shall have had total service as an Assistant Chief in the Fire Department of the City of Lorain, Ohio of not less than one (1) year prior to the date of examination.

(c) Promotional examinations for positions under the jurisdiction of the United Steelworkers Local 6621 CBA shall be set forth pursuant to the contract.

SECTION 5.5 - SCOPE OF EXAMINATION

(a) In General (1) - Examinations shall be practical in character, shall relate directly to those matters which will fairly test the relative capacity of the person examined to discharge the particular duties of the class or position to which appointment is sought and shall when appropriate, include tests of manual skill. The Commission shall prescribe the subjects of each examination and the relative rates to be attached thereto, provided that any such determination shall have been adopted prior to the date of such examination.

(2) Where permitted by law and these Rules or when the Commission deems it to be appropriate, examinations shall include tests of manual skills, including practical demonstration tests specified in Section (124.23) of the Revised Code.

(3) Effective July 10, 2006, all potential City of Lorain Civil Service classified employees will be required to successfully pass a pre-employment drug test administered under the direction of the City of Lorain prior to their appointment.

(4) Effective October 1, 2012, all potential City of Lorain Civil Service classified employees will be required to successfully pass a basic pre-employment physical administered under the direction of the City of Lorain prior to appointment.

All applicants for appointment to positions in the Police Department, and Fire Department and whenever in the judgment of the Commission, physical qualifications are of special importance; an applicant for a position of any other department shall be required to pass a physical examination with no more than one hundred and twenty days prior to receiving such appointment, given by a licensed physician to be designated by the Commission, showing they meet the physical requirements necessary to perform their duties as established by the Civil Service Commission. The cost of the medical examination shall be borne by the City of Lorain. If this date and time are inconvenient, the candidate has three (3) days in which to expedite having the physical examination, excluding Saturdays, Sundays, and holidays. The result of a physical examination shall be used only to determine the applicant's final eligibility and fitness for appointment.

(4) All applicants for appointment to the Lorain Police Department including Correctional Officers and the Lorain Fire Department shall be given agility tests. This test shall consist of a test of bodily condition, muscular strength, agility and physical fitness. This may be given a weighted or pass / fail. Applicants must pass the agility examination in addition to the written examination in order to be eligible for the position.

(5) All applicants for entry-level positions of Police Officer and Correctional Officer shall have administered a psychological examination not more than one hundred twenty days prior to receiving such appointment, given by a licensed psychologist to be designated by the Commission. The cost of the examination will be borne by the City of Lorain.

(6) All applicants for entry-level positions in the Police and Fire Departments shall have administered a polygraph examination and a complete background investigation the cost of which will be borne by the City of Lorain.

(b) Promotional Examinations - (1) All classified positions including management positions in the City of Lorain excluding those positions in the Police, Fire, Correctional Officer and Telecommunicator / Information Officer unions shall be posted. Promotional examinations and or selections shall be practical in character and shall relate directly to these matters which will fairly test the relative capacity of the person examined to discharge the particular duties of the position to which promotion is sought. Promotional examinations shall be in accordance with section 124.23 and 124.31 of the Ohio Revised Code.

(2) Promotions to positions above the rank of Police Officer in the Police Department shall be made only in accordance with the provisions of Section 124.44 of the Revised Code.

(3) Promotions to position above the rank of regular Firefighter in the Fire Department shall be made only in accordance with the provisions of Section 124.45 of the Revised Code.

(4) Any person taking a promotional examination will attempt to get someone to replace him during the time of the test and if all resources of getting a replacement are exhausted, then the supervisor will make provisions to allow a person on duty to take a promotional test and fill the vacancy if deemed necessary for this period of time.

SECTION 5.6 - CONDUCT OF EXAMINATION

(a) Identity of Applicants Concealed—The identity of all persons taking competitive assembled examinations shall be concealed by the use of an identification number which shall be assigned to the applicant at the beginning of the examination and shall be used until all papers have been rated or graded. Any papers bearing the name of the applicant or any other identification mark shall be rejected and the applicant so notified.

(b) Correction of Errors - Errors committed in examination shall be corrected only by the applicant by obliterating the erroneous marking and authenticating the same with the applicant's identification number in ink.

(c) Admittance of Applicants to Examination - Applicant must present a Driver's license or picture identification for admittance to examination. No applicant shall be admitted to any assembled examination more than 30 minutes after the advertised time of beginning such examination or after any applicant competing in such examination has completed his work and left the examination room.

(d) Duration - No applicant in any examination shall be given a longer time for completing the same than prescribed by the Commission prior to the start of the examination. The time limit for applicants shall be announced to the applicants prior to the beginning of the examination.

(e) Visitors - No visitors shall be admitted to the examination room during examination except by special permission of the Commission.

(f) Penalties for Violation of Rules - Any applicant found to have committed any of the prohibited practices specified in Rule XII, Section 12.3 or otherwise violated these Rules shall be excluded from the examination for which he has applied; or, having taken the examination, shall be penalized with a zero marking upon his examination papers; or, if in such case, his examination papers have been graded and the applicant placed upon an eligible list, he shall forthwith be removed from such eligible list, as herein provided.

SECTION 5.7 - GRADING

(a) Method of Grading - Each part of the examination for any class shall be separately rated and the proficiency of each competitor in each part rated on a scale of 100 for the maximum possible attainment (excluding credits for military service). Seventy percent shall be required minimum passing grade for entry-level exams, and sixty percent for promotional exams unless otherwise stated in the respective CBA. The method of obtaining the average percentage of an examination shall be as follows: Multiply the rating obtained in each part by the relative rate of that part and add the products. The sum of the

products so obtained shall be the grade of the applicant. At the time of the marking of examination papers, there may be authorized representatives of the employees taking the examination present to observe the grading papers. At no time shall these representatives interfere in any way with the grading of these papers.

→ Additional Credits

(b)(1) Any person who has completed service in the uniformed services, who has been honorably discharged from the uniformed services or transferred to the reserve with evidence of satisfactory service, and who is a resident of this state and any member of a reserve component of the armed forces of the United States, including the Ohio national guard, who has completed more than one hundred eighty days of active duty service pursuant to an executive order of the president of the United States or an act of the congress of the United States may file with the director a certificate of service or honorable discharge, and, upon this filing, the person shall receive additional credit of twenty per cent of the person's total grade given in the examination in which the person receives a passing grade. A person who receives an additional credit under division (C)(1) of this section shall not receive an additional credit under division (C)(2) of this section.

(b)(2) A member in good standing of a reserve component of the armed forces of the United States, including the Ohio National Guard, who successfully completes the member's initial entry-level training shall receive a credit of fifteen per cent of the person's total grade given in the examination in which the person receives a passing grade.

Pursuant to the action taken at the June 9, 1997 regular meeting of the Lorain Civil Service meeting: Legal opinion # 97-030 sets forth the criteria for veteran's credit on entry-level civil service examinations. This legal opinion shall be adopted as the basis for awarding veteran's credit on entry-level examinations. An individual must show certified proof of Honorable Discharge (*or as amended 2/12/01 to include Under Honorable Conditions pursuant to documentation from State Personnel Board of Review*), from a regular branch of the military, prior to the establishment of the eligibility list. A discharge that reads: *Uncharacterized* as well as *Dishonorable* will not be acceptable.

(2) Promotional Examinations - (i) Seniority - Applicants taking promotional examinations, except members of the Fire Department, shall receive credit for seniority as determined by Section 124.31 of the Revised Code of Ohio; applicant for promotion in the Fire Department shall receive credit for seniority as prescribed in Section 124.45 of the Revised Code of Ohio.

(ii) Efficiency - In all departments except where specifically excluded per the CBA, additional credit shall be given for efficiency which shall be the efficiency rating based upon the two most recent efficiency ratings received by the Commission prior to the exam. The Commission shall arrive at an average yearly rating which shall be the employee's efficiency rating for grading purposes. The additional grade for efficiency shall be 10% of the employee's efficiency rating.

SECTION 5.8 - INSPECTION OP PAPERS: PROTESTS

Pursuant to Legal Opinion 2011-24 dated July 14, 2011 and the action of the Lorain Civil Service Commission at the meeting of September 12, 2011 the following changes

regarding protest procedures have been adopted by the Lorain Civil Service Commission pursuant to the Ohio Revised Code and the Ohio Administrative Code:

- 1) Protests shall be handled pursuant to Ohio Revised Code 124.45 for all Fire promotional examinations.
- 2) All other protests for Civil Service examinations both entry-level and promotional shall be pursuant to 123:1-9-01 of the Ohio Administrative Code.
- 3) Judge Zaleski's ruling in Case No. 92CV108156 regarding protests and executive sessions to discuss protests shall no longer apply.

No grades in any examination shall be changed after the preparation of an eligible list except after the consideration of the reasons submitted in writing by the examining staff or Commission; provided, however, that the Secretary may correct clerical errors of examiners or employees at any time before the expiration of such lists.

The appropriate appointing authority or his authorized representative shall be privileged to receive from the Commission, upon request, a detailed announcement of the topics covered in the examination and the relative performance of each candidate to be considered in each of these areas, should this be desired in connection with determining the relative fitness of persons under consideration for appointment.

At no time shall the appointing authority be privileged to view the questions and answers to examination under this Section. This Rule has been adopted to insure the security of test items.

RULE VI - ELIGIBLE LISTS

SECTION 6.1 - PREPARATION

After the examination papers of applicants shall have been graded and upon the expiration of the period in which the applicants may file protests to their grades as specified, the Commission shall prepare and keep open to public inspection, from the returns of each examination, an eligible list of the persons whose lowest grade in the examination, is not less than 70% for entry level and 60% for promotional, and who are otherwise eligible for appointment. Persons named on the eligible list shall take rank thereon in the order of their relative aggregate grades earned in the examination including Veteran's points which shall be awarded pursuant to state and local rule for entry level examinations and seniority and efficiency points which will be awarded in promotional examinations pursuant to the appropriate union contract and civil service rule.

SECTION 6.2 DURATION OF LISTS

The term of eligibility of each list and of the names appearing thereon shall be one year, except as provided in the Ohio Revised Code for Police and Fire where certain eligibility lists must be in effect for two years. Any list one year old may be extended by the Commission for a period not to exceed one additional year, in the event that the Commission finds such action to be in the public interest. When an eligible list is reduced to ten names or less, a new list may be prepared.

SECTION 6.3 - TIES

In the event two or more applicants received the same mark in an entry-level competitive examination, priority in the time of the filing of the application with the Commission shall determine the order in which their names shall be placed on the eligible list; provided that applicants eligible for veterans' preferences under Section 124.23 of the Revised Code shall receive priority in rank upon the eligible list over non-veterans on the same list with a rating equal to that of the veteran. Ties among veterans shall be decided by priority in the time of filing of applications. In the event of two or more applicants receiving the same mark on a promotional examination, seniority shall determine the order in which their names shall be placed on the eligible list.

SECTION 6.4 - TRANSFER TO A LOWER CLASS

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

SECTION 6.5 - NAMES NOT CERTIFIED FOR APPOINTMENT

The name of any person appearing upon an eligible list who:

(a) Fails to report or arrange within 3 days (Saturdays, Sundays and Holidays excluded) for an interview with an appointing authority after a request for same has been made by the appointing authority;

or

(b) Fails to respond to a notice by phone or in writing from the Civil Service Commission;

or

(c) Declines an appointment without reasons satisfactory to the Commission; or

(d) Cannot be located by the postal authorities; or

(e) Has in any other respect violated the Civil Service Law or these Rules or committed any of the practices prohibited by these Rules, shall not hereafter be certified to any appointing authority as eligible for appointment. The eligible person shall be notified to this effect unless his whereabouts are unknown by mail, addressed to his last known place of residence. Provided, however, that if a satisfactory explanation of the circumstances is made to the Commission any such person may thereafter be certified for appointment from the eligible list upon which his name appears. In case an eligible person's name appears on more than one list, appointment to a position in one class shall be considered a waiver for appointment from other eligible lists for classes, the salary of which is equal or lower.

SECTION 6.6 - DISQUALIFICATION OF ELIGIBLES

A person shall be removed from an eligible list, if at anytime after the creation of any such list, the Commission has reason to believe that he is disqualified for appointment because of the violation of the Civil Service Laws, the Rules of the Commission, or the commission of any acts prohibited, false statements made in his application or physical disability. In such event, such persons shall be so notified by mail, addressed to the last known place of residence and shall be given an opportunity to be heard by the Commission upon a date and time, and at a place specified in such notice. If such person shall fail to appear for hearing, or upon being heard fails to satisfy the Commission that he is qualified for appointment his name shall not be restored to such eligible list. If, upon

hearing, the Commission is satisfied that its prior action in removing the name of such person from the eligible list has been erroneous for any reason, his name shall be restored thereto.

SECTION 6.7 - CHANGE OF ADDRESS

Each person on an eligible list shall file with the Commission written notice of any change of address and phone number. Failure to do so may be considered sufficient reason for not certifying his name to appointing authorities for further appointments.

SECTION 6.8 - REVOCATION OF LISTS

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

RULE VII - APPOINTMENTS

SECTION 7.1 - IN GENERAL

Original appointments to all positions in the classified service shall be made only from those persons whose names are certified to the appointing authority in accordance with the Ohio Revised Code Civil Service Laws and the Local Civil Service Rules of the Lorain Civil Service Commission. The State Personnel Board of Review decision Case No. 89-INV-11-0633 is hereby incorporated into the Lorain Civil Service Local Rules. This stipulation agreement requires all classified positions including management positions but excluding Police and Fire positions to be properly posted for bid through the posting process before a position can be advertised and declared exceptional. *In the event that no person signs the posting for a classified position in the City of Lorain, the position shall automatically be advertised by the Civil Service Commission without further approval from Commission.* As of 7/1/07 provisional appointments have been removed from the Ohio Revised Code and therefore the section of the stipulation agreement regarding provisional appointments shall no longer apply. All potential employees for any classified position for the City of Lorain shall have a background investigation and drug screen as a part of the review process prior to employment. *Pursuant to the Ohio Administrative Code 123: 1-9-03, effective October 1, 2012 all potential City of Lorain Civil Service classified employees will be required to successfully pass a basic pre-employment physical administered under the direction of the City of Lorain prior to their appointment. The cost of these basic pre-employment physicals will be borne by the Lorain Safety/Service Department and the Lorain Health & Benefits office.*

SECTION 7.2 - RESTRICTIONS AS TO AGE. PHYSICAL CONDITION OR OTHER REQUIREMENTS

Any restriction for appointment from an eligible list as to age, physical condition or other requirements shall be made prior to and stated in the notice of the examination and no eligible list shall be restricted unless such requirements have been announced in the notice of the examination. No applicant will be less than 18. (See updated Ordinances including Ordinance 44-98 concerning Police Officers who shall not be 35 and be appointed and Firefighters who shall not be 41 and be appointed).

SECTION 7.3 - ORIGINAL APPOINTMENTS -APPOINTMENTS FROM ELIGIBLE LISTS - PROBATION.

(A) Appointments to all positions in the classified civil service, that are not filled by promotion, transfer, or reduction, as provided in sections 124.01 to 124.64 of the Revised Code and the rules of the director prescribed under those sections, shall be made only from those persons whose names take rank order on an eligible list, and no employment, except as provided in those sections, shall be otherwise given in the classified civil service. The appointing authority shall appoint in the following manner: each time a selection is made, it shall be from one of the names that ranks in the top ten names on the eligible list or the top twenty-five per cent of the eligible list, whichever is greater. In the event that ten or fewer names are on the eligible list, the appointing authority may select any of the listed candidates. Each person who qualifies for the veteran's preference under section 124.23 of the Revised Code, who is a resident of this state, and whose name is on the eligible list for a position is entitled to preference in original appointment to any such competitive position in the classified civil service of the state over all other persons who are eligible for those appointments and who are standing on the relevant eligible list with a rating equal to that of the person qualifying for the veteran's preference.

(B) All original and promotional appointments in the classified civil service, including appointments made pursuant to section 124.30 of the Revised Code, but not intermittent appointments, shall be for a probationary period, not less than sixty days nor more than one year, to be fixed by the rules of the director for appointments in the civil service of the state, except as provided in section 124.231 of the Revised Code, and except for original appointments to a police department as a police officer or to a fire department as a firefighter which shall be for a probationary period of one year. No appointment or promotion is final until the appointee has satisfactorily served the probationary period. If the service of the probationary employee is unsatisfactory, the employee may be removed or reduced at any time during the probationary period. If the appointing authority decides to remove a probationary employee in the service of the state, the appointing authority shall communicate the removal to the director. A probationary employee duly removed or reduced in position for unsatisfactory service does not have the right to appeal the removal or reduction under section 124.34 of the Revised Code.

(C) Limitations as of Sex - The Commission may in their discretion, and for good cause, certify the top ten names or the top twenty-five percent (whichever number is greater) of one sex if in compliance with state laws concerning a BFOQ or Bonafide Occupational Qualification.

SECTION 7.4 - PROMOTIONS

- (a) In General - Vacancies in positions in the classified service shall be filled insofar as practicable by promotions.
- (b) Police Department - No position above the rank of patrolman in the Police Department shall be filled except by promotional appointment which shall be made as provided in Section 124.44 of the Revised Code, and/or Sections 5.7 (b) (2) (ii), 7.6, and 7.7, and its subsections of the Lorain Civil Service Commission rules.
- (c) Fire Department - No position above the rank of regular fireman in the Fire
- (d) Department shall be filled except by promotion which shall be made as provided in Section 124.45 of the Revised Code.
- (e) All Other Departments - Promotions in the classified service in all other departments in the Civil Service shall be filled only as provided in Section 124.31 of the Revised code, except as permitted in Section 124.30 of the Revised Code or Section 123:1-23-02 of the Ohio Administrative Code.

SECTION 7.5 - PROBATIONARY PERIOD

- (a) Original Appointments - (1) Police and Fire Departments All original appointments to the Police and Fire Departments shall be for a probationary period of one year.
- (b) All Other Department - All original appointments to positions in all other departments in the Civil Service shall be for a period of one year.
- (c) Promotional Appointments - (1) Police and Fire Departments - All promotional appointments in the Police and Fire Department shall be for probationary period of 90 days.
- (b) All other Departments - All promotional appointments in all departments in the Civil Service, except the Police and Fire Departments, shall be for a probationary period of 90 days except as provided in the CBA which stipulates a 60 day probationary period.
- (c) *(Provisional Service - Services as a provisional employee in the class to which such appointee has been named or in a similar class shall be included in determining the probationary period of such employee.)* Pursuant to House Bill 187 provisional appointments shall not be made effective 7/1/07.

Finality of Appointment - No original or promotional appointment shall be final until the appointee has satisfactorily served his probationary period. Except as hereinafter provided, if the service of the probationary employee is unsatisfactory he may be removed or reduced **with no right of appeal** during the probationary period as provided in Section 124.27 of the Revised Code, provided that reduction in rank held by a probationary employee in the Fire Department shall be made only as provided in Section 124.49 of the Revised Code.

SECTION 7.6 - TEMPORARY AND EXCEPTIONAL APPOINTMENTS

- a. Temporary, and exceptional appointments shall be made as provided in Section 124.30 of the Revised Code of Ohio.

SECTION 7.7 - TEMPORARY PROMOTIONS

An interim or temporary, promotion to a higher position without examination made necessary by reason of sickness or disability of a regular employee, or a temporary

vacancy therein, may be authorized by the Commission upon the written request of an appointing authority who shall set forth full information with the request. All such temporary promotions shall continue only during such period of sickness or disability or upon the termination of such temporary vacancy, and shall be recorded on the payroll of the department. Such temporary promotion shall be made, from the class or grade of position immediately below the class or grade in which the temporary vacancy exists. If no employee in the next lower classification or grade is found to be willing, the position may be filled from the next lower rank. Temporary promotions through higher position pay should not be made where a permanent vacancy exists, the permanent vacancy should be properly posted and filled through the posting process.

Provisional Appointments shall no longer be made as of July 1, 2007. Emergency Appointments are now considered Temporary Appointments. Temporary appointments into a vacant position which cannot be filled for a limited time through the higher position pay process shall be posted for appointment. If the position is posted and cannot be filled, and no eligibility list exists for the position, a temporary appointment may be made for a maximum of 120 calendar days, or until such time as an eligibility list is established and the position can be permanently filled, whichever is sooner. The acceptance or refusal by an eligible person to a temporary appointment shall not affect that person's standing on any eligible list for permanent appointment, nor shall the period of temporary service be counted as a part of the probationary service in case of subsequent appointment to a permanent position. Persons who receive temporary or intermittent appointments are in the unclassified civil service and serve at the pleasure of their appointing authority.

RULE VIII - TRANSFERS; REINSTATEMENTS; ABSENCES; LAYOFFS

SECTION 8.1 TRANSFERS

(a) A person holding a position in the classified service may be transferred, with the consent of the Commission, to a similar position in another office, department or institution having the same pay and similar duties; but no transfer shall be made from an office or position in one class to an office or position in another class, nor shall a person be transferred to an office or position, appointment to which would require an examination involving essential tests or qualifications, or carrying a salary, different from or higher than those required for appointment to the office or position held by such person.

(b) No classified employee shall be temporarily transferred from the position and department to which he/she has been duly appointed for more than thirty (30) days. An extended transfer of an additional sixty (60) days may be made upon the written approval of the employee. No temporary transfer will extend beyond the ninety (90) day limit. No permanent transfer shall be made without the approval of the Civil Service Commission. All such transfers shall be made in accordance to all relevant Ohio Revised Code statutes and local Civil Service Commission rules.

SECTION 8.2 - REINSTATEMENTS

(a) In General - Reinstatements shall be made only as provided in Section 124.32 of the Revised Code of Ohio.

(b) Preference - In the event that two or more employees are eligible for reinstatement to the same position in the same department, preference for such employment shall be given to the one having the greater seniority.

SECTION 8.3 - LEAVE OF ABSENCE

With the consent of the Commission the appointing authority may grant leave of absence to an employee in the classified service for a period of not to exceed one year and upon the expiration of such leave of absence, such officer or employee shall be reinstated. All such leaves of absence granted by the appointing authorities shall be referred to the Commission promptly for approval, in order that the Civil Service status of such absentees may be protected.

SECTION 8.4 - ABSENCE WITHOUT LEAVE; REINSTATEMENT

Absence from duty without leave for any time will be considered neglect of duty and good cause for disciplinary action by the appointing authority. Absence from duty without leave for 7 consecutive days shall be deemed a resignation from the service by the absentee upon report of such absence by the appointing authority, and the resignation shall be entered upon the records of the Civil Service Commission; provided, however, that if at any time within 30 days the person so absenting him shall make satisfactory explanation to the Commission of the cause of absence he may be reinstated to his position without examination. Failure to report after a leave of absence has expired or has been disapproved or revoked and cancelled by the Commission shall be considered neglect of duty and cause for disciplinary action by the appointing authority; provided, however, that if an officer or employee so discharged shall show to the satisfaction of the Commission that such failure to report was excusable, the Commission then may order his reinstatement without examination.

SECTION 8.5 - LAYOFF PROCEDURE

(a) Police and Fire Departments - When it becomes necessary in a Police or Fire Department, through lack of work or funds, or for causes other than disciplinary reasons, to reduce the force of such departments, the youngest employee in point of service shall be the first laid off.

(b) Departments Other than Police and Fire - When it becomes necessary in any department other than the Police and Fire Departments to lay off classified employees, such layoff procedures will be governed by Section 124.321 through 124.328 of the Revised Code. In such departments provisional appointees if any, shall be laid off first and probationary appointees if any, shall be the next to be laid off. Thereafter the youngest employee in point of service shall be laid off.

Reinstatement rights and preservation of Civil Service status of employees so laid off who enter into the active military service of the United States, shall be governed by the provisions of Section 124.29 of the Revised Code.

SECTION 8.6 - BUMPING RIGHTS

(a) Each employee in the classified service laid off has the right to bump in any department within his appointing authority, another employee in the same or lower classification with the least retention points. If a next lower classification or successively

lower classification in a classification series exists then an employee displaced choosing to exercise his bumping rights, shall, if possessing more seniority points, displace the employee with less seniority. This procedure shall continue if necessary, until the employee with the least seniority in the lowest classification of the classification series of the same appointing authority has been reached, and if necessary, laid off.

(b) Procedure for and Time Limit on Exercise of Bumping Right.

Each employee intending to bump another employee shall, not later than the fifth working day after receipt of notice of layoff, notify the appointing authority that such employee chooses to exercise the right to bump. Thereafter, the appointing authority shall prepare and furnish such bumped employee a notice of bumping containing the information required by Rule 8. Upon receipt of notice of bumping, that employee shall have five working days after receipt of notice within which to bump another employee. This procedure shall continue until the employee with least seniority in the lowest classification of the classification series of the same appointing authority has been bumped, and if necessary, laid off.

SECTION 8.7 - REINSTATEMENT RIGHTS

(a) Each appointing authority which has laid off any employee shall prepare layoff lists for the classification series in which layoffs occurred. Names of all laid-off and displaced certified employee shall appear on one list in descending seniority order. In cases of identical seniority ratings those employees having the most seniority in terms of latest actual date of hire with that appointing authority shall be placed on the list first; if still unresolved, the date on the employee's application shall determine the order of reinstatement. An employee's name shall remain on the appropriate list for a period of two calendar years or the equivalent of his classified service whichever greater, beginning from the date the employee was first laid off or displaced from his original classification. These lay off lists shall be sent to the Director of the Civil Service Commission but shall be utilized by the appointing authority only within a lay-off jurisdiction as follows:

(1) Vacancies which occur in the classification series of layoff must be offered to or declined in writing by the first person on the certified layoff list for that classification series before the next person on the list may be considered; but in no event shall any employee on the layoff list be offered a position in a classification higher than the one laid off or displaced from.

(b) In any layoff jurisdiction in which an appointing authority has any employee on a layoff list, that appointing authority shall not directly or indirectly hire, promote or transfer into the classification or the classification series of layoff:

(1) Any individual, until all employees on its certified layoff list for that classification series are either reinstated or decline reinstatement in writing.

(2) Any individual to a seasonal, temporary, part-time or intermittent position in the classification series of layoff, until all laid off and displaced certified employees have been offered a position or declined reinstatement in writing.

(c) Any employee reinstated under this rule shall not serve a probationary period when reinstated; except that an employee laid off during an original probationary period shall begin a new probationary period.

(d) In the event a vacancy occurs in the classification series or layoff and no employee of the appointing layoff list had a classification status equal to or greater than the position

vacated, the appointing authority may promote through the proper procedures a qualified employee within that appointing authority to fill the vacancy.

SECTION 8.8 - REMOVAL FROM LAYOFF LISTS

(a) Any employee accepting or declining reinstatement to the same classification from which the layoff or displacement initially occurred shall be removed from the appointing authority layoff list; except that any employee declining reinstatement to a different type of appointment (intermittent, part-time, seasonal, full-time, temporary) then laid off or displaced from, or declining reinstatement for reasons of hardship as approved by the Commission, shall not be removed from the appointing authority's layoff list.

(b) Any employee declining reinstatement to a classification lower than the classification from which the layoff or displacement initially occurred shall not be removed from the appointing authority's layoff list; except that, such employee shall thereafter only be entitled to be offered reinstatement to a classification higher than the classification declined.

(c) If not removed under subsections (A) and (B) above, the name of any laid off or displaced employee shall be removed from the appointing authority layoff list a minimum of two calendar years, or the equivalent of his seniority, after the employee was first laid off or displaced from his original classification. In the event any reduced employee is subsequently laid off or displaced, such employee's name shall be removed from the list a minimum of two calendar years, or the equivalent of his seniority, after the second or subsequent layoff. The date of removal is computed by excluding the day of the event but including the last day of the period unless it is a Saturday, Sunday or legal holiday day (as provided in Revised Code Section 1.14) in which case the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

SECTION 8.9 - SENIORITY DURING LAYOFFS

(a) Employees reinstated within two years, or the equivalent of their seniority, from the date of layoff, retain all previously accumulated seniority.

(b) Step advancement for all laid off, displaced or reduced employees shall not be affected by a change in the employee's classification occurring as a result of a layoff, reduction or displacement.

(c) Employees reinstated or re-employed shall be reinstated or re-employed at the step of the pay range which most nearly corresponds to the compensation received by such employee as of the date of first layoff or displacement.

(d) Reinstatement or reemployment to the same classification within thirty (30) days of the date of layoff shall constitute continuous service for purposes of the Ohio Revised Code.

(e) Any employee on layoff status shall be eligible for a competitive promotional exam if otherwise eligible regarding classification structure and time in grade.

SECTION 8.10 - LAYOFFS DURING LEAVE

(a) Employees on sick leave, vacation leave, maternity leave, disability leave, military leave, or any other leave of absence may be laid off or displaced as any other employee and retain only those reinstatement and reemployment rights as any other laid off or displaced employee; except that any employee on sick leave at the time of notice of layoff

shall continue on sick leave until it is exhausted or such employee is able to return to work, whichever first occurs.

(b) While the minimum two-year reinstatement or reemployment right commences from the date of layoff or displacement, an offer of reinstatement or reemployment to a laid off employee, if still on leave, shall toll the running of the two-year limitation on the reinstatement or reemployment right until the term of the leave expires. Upon expiration of such term, the remaining portion of the two-year period shall again commence to run.

(c) An employee offered reinstatement or reemployment while still on leave need not be re-offered reinstatement or reemployment until 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 8.11 - COMPUTATION OF RETENTION POINTS

(a) Seniority placement on a lay-off list will be date of classified employment pursuant to the appropriate CBA seniority list. In the event that two or more employees are hired on the same date, the time of application will determine placement.

(b) Any classified employee whose employment is terminated for any reason and who is subsequently rehired more than thirty days after termination will lose the previous seniority time he had accumulated. The seniority date will be the date he was rehired.

SECTION 8.12 - INSPECTION OF LISTS

(a) Each appointing authority shall maintain a seniority list and post in a conspicuous and public place a list containing the names, dates of appointment, types of appointment, status, classification of all employees in that classification series.

(b) Each appointing authority layoff list shall, upon request, be made available for inspection and copying to anyone during normal working hours.

SECTION 8.13 - NOTIFICATION OF LAYOFF, DISPLACEMENT AND RECALL

(a) Each employee to be laid off shall be given advance written notice of the layoff by the appointing authority. 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 14 calendar days before layoff and the day of hand delivery shall be the first of the fourteen (14) day period. If mailed, such notice shall be given 17 calendar days before layoff and the day of posting shall be the first day of the seventeen (17) day period.

(b) Each notice of layoff or displacement shall contain the following information:

(1) The reason for layoff or displacement.

(2) The date layoff or displacement becomes effective.

(3) The employee's seniority

(4) The right of such employee if applicable to appeal to the Commission and the time limit within which to file an appeal. (10 days)

(5) A statement advising the employee of the right to displace another employee and the length of time within which the employee may displace (bump) another employee. (5 days)

(6) A statement advising the employee of the right to reinstatement or reemployment.

(7) A statement that, upon request by the employee the appointing authority make available a copy of Section 8 of Lorain Civil Service Commission Rules.

(c) Each employee recalled from layoff shall be notified of the offer of reinstatement or reemployment by phone or by certified letter. Each recalled employee shall be allowed 10 calendar days from the date of receipt of the letter to return to work, and such time limit shall be explained to the employee in the notification of recall letter. In the event of extenuating circumstances (e.g., illness, injury, absence from city or other good cause as determined by the Commission) preventing the employee from returning within the above time limit, the employer shall grant a reasonable extension, not to exceed 60 days. In the absence of extenuating circumstances, an employee not accepting or declining reinstatement or reemployment within ten (10) days shall be deemed to have declined reinstatement or reemployment for purposes of removal under 8.8.

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

SECTION 8.14 - APPEAL OF LAYOFF OR REDUCTION

Any laid off or displaced employee may file a written appeal of the layoff or displacement within the guidelines of the CBA or the Lorain Civil Service Commission whichever is appropriate. Such appeal must be filed no later than 10 working days after the effective date of the layoff or displacement.

SECTION 8.15 - REMEDY FOR ERRONEOUS LAYOFF, DISPLACEMENT, REINSTATEMENT OR EMPLOYMENT

(a) Employees shall not be laid off by any appointing authority or displaced by another employee in any manner or by any means other than as outlined in Rule 8, (or under the rules and regulations of the appropriate collective bargaining agreement that the employee is governed by). Any employee wrongfully laid off or displaced or laid off or displaced contrary to Rule 8 shall have the right to request reinstatement, and the appointing authority has the duty to reinstate such employee to the classification laid off or displaced from, if such employee has sufficient retention points to remain in that classification. Lacking sufficient seniority such employee shall be entitled to exercise the right to displace another employee as set forth in 8.3. An employee accepting reinstatement under this section shall have his name removed from all layoff lists.

(b) Laid off or displaced employees shall not be reinstated or re-employed in any manner or by any means other than as outlined in these layoff rules.

Any laid off or displaced employee discovering that another laid off or displaced employee has been wrongfully reinstated or reemployed contrary to the listing of names on the layoff lists in descending retention point order, shall have the right to request that such employee be removed and the appointing authority shall have the duty to remove such employee from that position. In that event, such position shall be offered to the employee standing highest on the appropriate layoff list and the removed employee's name shall be reinserted in its proper position. If it is found by the Commission that the removed employee circumvented the reinstatement or reemployment procedures outlined in Rule 8 either intentionally or in collusion with others, then such employee's name shall not be returned to and shall be removed from all layoff lists.

(c) Any laid off or displaced employee upon discovering that the appointing authority has wrongfully or contrary to these layoff rules hired a new employee(s) may request that such employee be removed, and the appointing authority shall have the duty to remove such employee from that position. In that event, such position shall be offered to the employee standing highest on the appropriate layoff list.

RULE IX - SUSPENSIONS, REDUCTIONS, DEMOTIONS, REMOVAL RESIGNATIONS, AND RETIREMENTS

SECTION 9.1 - TENURE

The tenure of every officer or employee in the classified service of the Civil Service shall be during good behavior and efficient service and no such officer or employee shall be reduced in pay or position, demoted, suspended or removed, except as provided in Section 124.34 of the Ohio Revised Code, or as specified under the appropriate sections governing Police Officers and Firefighters, whichever section shall be appropriate, and for the causes therein mentioned.

SECTION 9.2 - SUSPENSIONS, REDUCTIONS, DEMOTIONS AND REMOVALS

(a) Subject to the limitations contained in Ohio Revised Code 124.34, the appointing authority may suspend, reduce in pay or position, demote or remove any employee for disciplinary reasons except that Police and Fire Chiefs may suspend in a limited fashion the safety force employees in their respective departments. The appointing officer shall furnish to such employee forthwith such order of suspension, reduction, demotion or removal and shall file a copy of the same forthwith with the Commission; provided that successive suspensions of five days or less shall not be permitted; and provided that the Mayor shall have the exclusive right to suspend, demote or remove the Chief of the Police Department and the Chief of the Fire Department.

(b) In any "**disciplinary and non-probationary**" case of termination, reduction, or suspension, the following paragraph will be included in such notice letter:

"You are reminded that, pursuant to Section 10.01 of local Civil Service Rules, you may appeal any suspension over three (3) days, and disciplinary demotion, or a **disciplinary and non-probationary** termination, to the Civil Service Commission within ten (10) days of the action."

SECTION 9.3 - NOTIFICATION OF RESIGNATION. RETIREMENT OR OTHER TERMINATION

The appointing authority must forthwith notify the Civil Service Commission, in writing of any resignation, retirement or other termination of any employee.

RULE X - APPEALS

SECTION 10.1 - RIGHT TO APPEAL

Within ten days following the filing of any order by an appointing authority suspending an employee in the classified service for more than three (3) working days or reducing him in pay or position or demotion or removal of any such employee for disciplinary and non-probationary reasons, (except as hereinafter provided) the employee (herein designated 'Appellant') may file an appeal in writing with the Commission. In the event that such an appeal is filed, the Commission shall forthwith notify the appointing authority (herein designated 'Appellee') and shall hear, or appoint a trial board to hear, as hereinafter provided, such appeal within thirty days from and after its filing with the Commission. Upon appeal, the Commission or trial board, as the case may be, may affirm, disaffirm or modify the judgment of the appointing authority.

SECTION 10.2 - TIME AND PLACE OF HEARING

(a) Upon receipt from an employee in the classified service of a timely appeal from an order of suspension, removal, reduction or demotion, from which such employee is entitled to appeal, the Commission, or trial board if one is appointed shall set a time and place to hear such appeal as provided in Section 10.1 of these Rules, and shall notify the Appellant and the Appellee and their respective attorneys, if known, thereof.

(b) only one (1) postponement of a hearing will be allowed for each party, and this only if the request for postponement is received seventy-two (72) hours prior to the scheduled time of the hearing. In the event of an emergency situation, this rule may be waived at the discretion of the Commission.

SECTION 10.5 - PROCEDURE

(a) Counsel - Either or both parties namely the Appellant and the Appellee may be represented by counsel.

(b) Production of Evidence - Evidence shall be produced in the following order:

(1) The Appellee shall have the burden of proof and shall produce his evidence in support of the charges and specifications made by him.

(2) The Appellant shall then produce such evidence as he may wish to present to refute such charges.

(3) The Appellee may then offer evidence in rebuttal.

(4) The Commission or trial board may, in its discretion, permit evidence to be offered in rebuttal.

(c) Argument - The Commission or trial board may in its discretion, hear arguments from the parties.

SECTION 10.6 - RULES OF EVIDENCE

The production of evidence on the hearing of appeals and the decision thereon shall be governed in general by the rules of evidence, proof and burden of proof applied by the courts of the State of Ohio in civil case.

SECTION 10.7 - RECORDING HEARINGS

The Commission will use a tape recorder to record all hearings. If either party requests a court reporter present, the Commission will make the arrangements, but the cost of the court report will be borne by the party making the request. If a court reporter is not

requested, and the Commission's decision is appealed to Common Pleas Court, a transcript of the tape recording will be made at the expense of the party appealing.

SECTION 10.8 - RESIGNATION OF EMPLOYEE

The acceptance by an appointing authority of the resignation of a person who has filed an appeal before final action has been taken thereon by the Commission or trial board will be considered as a withdrawal of the charges. Notice of such resignation shall be submitted forthwith to the Commission. The separation of the employee thus resigning shall be entered upon the records of the Commission and the proceedings dismissed without judgment.

RULE XI - UNSKILLED LABOR

SECTION 11.1 - APPOINTMENT

All applicants for appointment under the unskilled labor classification shall follow the same procedures outlined in Ohio Revised Code Section 124.27 which addresses entry-level testing. The Commission shall certify the top ten names or the top twenty-five percent of the eligibility list for every one position available upon the request of the appointing authority. The appointing authority shall make his selection from the names certified by the Commission.

RULE XII - MISCELLANEOUS

SECTION 12.1 - EFFICIENCY RECORDS

(a) Preparation - All appointing authorities shall prepare and maintain efficiency records of all employees in their respective departments in such form and manner as the Commission shall, from time to time, prescribe.

(b) (1) Report to Commission - The efficiency record of each employee in the Civil Service shall be certified to the Commission, by each appointing authority once each year-by February-15th for the preceding year following the effective date of these Rules and at such other times as the Commission may require the certification of such records. Such reports shall be kept on file by the Commission.

(2) Probationary employees whether entry level or promotional, shall be evaluated at the halfway point of their probationary period, and again at the end of their probationary period. The final probationary evaluation shall state whether the employee is to be retained or probationarily removed.

(c) At the time the efficiency rating is reviewed with the employee being rated such employee will be given a copy of the rating form.

(d) Where possible employees will be evaluated by three supervisors.

SECTION 12.2 - MAINTENANCE OF RECORDS

The Commission shall maintain records of all of its proceedings and actions which, except examination papers, psychological and physical examinations of persons having knowledge of any applicant, shall be open to public inspection. Examination papers shall

SECTION 12.3 - PROHIBITED PRACTICES

No person or officer shall:

- (a) Willfully or corruptly by himself or in cooperation with one or more persons deceive or obstruct any person in respect of his or her right of examination, appointment or employment arising under the Civil Service Laws of any rules and regulations prescribed pursuant thereto.
- (b) Willfully or corruptly falsely mark, grade, estimate or report upon the examination or proper standing of any person examined or certified pursuant to the provisions of the Civil Service Laws or these rules, or aid in doing so.
- (c) Willfully or corruptly make any false representation concerning the results of such examination or concerning any person examined.
- (d) Willfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person examined or certified, or to be appointed, employed or promoted.
- (e) Willfully impersonate any other person, or permit or aid in any manner any other person to impersonate him, in connection with any examination, certified or appointed.
- (f) Furnish any false information about himself or any other person in connection with any application, examination certification or appointment, or request to be examined, certified or appointed.
- (g) Make known or assist in making known to any applicant for examination any questions to be asked upon such examination.
- (h) As an applicant taking an examination assist any other applicant in any manner whatsoever in connection with such examination.
- (i) Personally solicit any favor or preference from any member of the Commission, or appointing authority in connection with any examination being given by the Commission or in connection with any certification or appointment, or have any person in his behalf solicit any preference or favor in connection therewith.
- (j) Commit any act prohibited by the Civil Service Laws of the State of Ohio.
- (k) Use at any examination any means of information other than that provided in the examination itself such as memoranda, pamphlets, books, or any other material of any kind to assist him in answering the questions.
- (l) Participate in political activity that is prohibited in section 124.57 of the Ohio Revised Code.

RULE XIII - AMENDMENT OF RULES

SECTION 13.1 - AMENDMENT

These Rules may be amended by the Commission at any regular meeting of the Commission or at any special meeting called for such purpose.