

ORDINANCE NO. 26-2023

TITLE: AMENDMENT OF CIVIL SERVICE RULES

AN ORDINANCE AMENDING ORDINANCE NO. 11-2021 TO AMEND THE CIVIL SERVICE RULES, REGULATIONS AND PROCEDURES TO ADD LANGUAGE FOR LATERAL TRANSFERS FOR POLICE AND FIRE, AND DECLARING AN EMERGENCY.

WHEREAS, on February 13, 2023, the Civil Service Commission passed a motion to accept these changes.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Barberton, State of Ohio:

SECTION 1. That Council hereby amends Ordinance No. 11-2021, by showing said amendment with a ~~strike through~~ for any deletions and **bold** for any additions to read as follows:

RULE V

ENTRANCE EXAMINATION METHODS

The examination process shall include all of the factors taken into consideration in constructing an eligible list and selecting a candidate to fill a Position. An examination may consist of one or more of the following elements:

1. Written Examination

Written examinations shall test an applicant's aptitude, potential for achievement, and knowledge of work. An objective examination is designed to test an applicant's familiarity with information and material which could reasonably be expected in a Position; and may include standard intelligence tests; standard aptitude tests; a dissertation on one or more subjects dealing with problems encountered in a Position; or any other acceptable method to examine an applicant's potential and ability to perform the duties of a Position.

2. Medical, Physiological, Psychiatric and/or Psychological Examinations

- A. Examinations Critical to a Position. When it is determined that medical, physiological, psychiatric, or psychological qualifications are critical to a Position, candidates shall be required to pass an examination and be certified as qualified in such respect.
- B. Notice and Certification of Examination. Whenever a medical, physiological, psychiatric, or psychological examination is required, the following shall apply:
 - a. Notice of Requirement. When a medical, physiological, psychiatric, or psychological examination is required for a Position such requirement shall be published in the Notice of Examination.
 - b. Designation of Physician or Psychologist and cost of the Examination. The Director of Public Safety and Human Resources may designate who is to conduct the examinations. The cost of examinations shall be borne by the City.
- C. Costs of all Other Examinations. Unless otherwise specified, costs of all other examinations shall be borne by the candidate.

- a. **Second Opinion.** If a candidate disagrees with the findings of the designated physician, psychiatrist, or psychologist the candidate may seek a second opinion at the candidate's expense.
- b. **Certification Required.** Candidates choosing to seek a second opinion at their own expense shall be furnished forms that indicate the items an examination must cover. The forms must be completed by a physician, psychiatrist, or psychologist who has personal knowledge, from either medical treatment or examination, as to the medical, physiological, psychiatric, or psychological condition of the candidate as the condition would relate to the candidate's performance in a Position.
- c. **Final Ruling.** The Commission may order a third examination of the candidate or make a final determination based on the findings from the original examination and the second opinion. The ruling shall be final and the candidate shall not have a right to appeal.
- d. **Physical or physiological examinations** shall measure the muscular strength, agility, endurance, and coordination of candidates. Physical or physiological examinations are designed to measure a candidate's physical abilities to perform required tasks of a Position and may involve physical tasks similar to those required of a Position.
- e. **Use of Examination Results.** Any medical, physiological, psychiatric or psychological examination reports shall be treated as confidential records pursuant to applicable Ohio public records law. Examination results may be used by the Employer in ascertaining an applicant's physical, physiological, psychiatric or psychological fitness for appointment and employment.

3. Special or Exceptional Qualifications

- A. When a Position requires special qualifications of a scientific, managerial, professional, or educational nature, or where a particular applicant has special qualifications for a Position based on special skills, education or experience, the Commission may determine that it is not practicable to give a competitive examination for a Position or to fill a Position from an eligible list. In such cases, the Appointing Authority may appoint or approve the appointment of a person who possesses such special qualifications upon the submission to and approval by the Commission that it is not practicable to conduct an examination for the Position, or to fill the Position from an eligible list, and that the person possesses the special qualifications.

4. Resume' Position:

- A. **Minimum Qualifications.** The minimum qualifications for a classification shall be considered part of the examination process. Minimum qualifications are those skills, knowledge, and abilities required for each Position. The qualifications contained in the Position Description shall determine whether the candidate will be considered for the Position.
 - a. The minimum qualifications for a Position shall be made a part of the announcement of an examination. Modifications to the minimum qualifications shall not be permitted after publication of the announcement.
- B. **Determination of Minimum Qualifications.** The Commission shall determine whether minimum qualifications have been met according to the Position Description and Notice of Examination. Resume's that do not meet the minimum qualifications shall be rejected. Resume's may also be rejected for reasons listed

in RULE VI (3 and 4).

- C. Appeal Process. An applicant whose resume' is rejected, may, within five (5) days of notice of rejection, appeal in writing to the Commission for review. The Commission shall afford such applicant an opportunity to be heard.
- D. Investigation. The Commission may, in its discretion, investigate the content of resume' statements as to training and experience and may reject the applicant for falsification or gross misrepresentation of information contained in the resume'.
- E. Resume's meeting the minimum qualifications (Pass) for the Position shall be forwarded to the Appointing Authority for the purpose of scheduling applicants for the Examination Interview. Refer to Rule VIII 1 (b).
- F. Examination Interview. Examination Interviews for Positions shall be administered by two (2) or more persons. Examination Interviews are designed to evaluate the education, experience, or training of applicants. Examination Interviews shall use a consistent standard method of rating the qualifications of candidates. It is understood that answers to questions may generate further, unscripted questions. Answers in their totality should be considered when rating each question.
 - a. Examination Interview Rating Form. An Examination Interview Rating Form shall be completed for each applicant. Questions shall be predetermined and documented on the form. Each interviewer shall complete the Examination Interview Rating Form. Each applicant shall be asked the same predetermined questions with a rating system for each answer given to each question. Generally, questions will receive a rating on a 1-5 scale; one (1) being the lowest score and five (5) the highest score.
 - b. Ratings Averaged. Ratings shall be completed by the interviewers independent of one another. Interviewers will add the ratings for each question and divide the total number by the number of questions to determine an overall score of the Examination Interview.
- G. Final Score and Ranking. The Final Score, as determined by each interviewer, shall be averaged by adding overall scores of each applicant and dividing by the number of interviewers. The applicants shall receive a final ranking in order of highest to lowest overall score.
- H. Certification. The Appointing Authority will present the rank order of all candidates from highest to lowest to the Commission. Original Appointments shall be made pursuant to these Rules.

5. Interviews and Ranking Other than Resume' Positions

- A. Interviews of Candidates for other than Resume' Positions, may be conducted after the Eligible List has been certified by the Commission. Interview ratings shall not alter or modify the Certified Eligible List and are designed to determine the most qualified Candidate from the pre-selected group of Candidates provided to the Appointing Authority.

Example: A list of the top ten (10) Candidates is provided to the Appointing Authority for hiring consideration. All Candidates are determined to be qualified by the Commission, however, the Appointing Authority may choose the best qualified Candidate from the list of ten (10) Candidates for hire.

- B. These interviews shall involve similar questions for all eligible Candidates and shall be related to the position sought.

- C. Interviews shall be administered by two (2) or more individuals, who shall be familiar with the position and, to the extent possible, all candidates shall be interviewed by the same individuals.
- D. An overall rating of a candidate's answers to all questions shall be used to determine the most qualified candidate for the position on a 1-5 scale, one (1) being the lowest score and five (5) the highest score. The scores shall be averaged to determine a final score for the applicant. Ratings shall not be used to alter or modify an existing Certified Eligible List.

6. Polygraph and Voice Stress Analysis (VSA) Examinations

- A. Polygraph and Voice Stress Analysis (VSA) Examinations shall be contained in the Notice of Examination approved by the Commission. Whenever a polygraph examination or voice stress analysis is required as an element of an examination process the cost of the polygraph examination and voice stress analysis shall be borne by the City. Any polygraph examination and voice stress analysis and associated reports shall be deemed confidential records, to the extent allowable by Ohio public records law, and may only be used in ascertaining an applicant's fitness for appointment and employment.

7. Scope of Examinations

- A. All examinations, all portions of an examination, and all methods utilized in an examination shall be related to and premised upon the duties and responsibilities of the Position examined.
- B. Each applicant for examination must successfully complete each element of the examination in order to pass the examination. The elements of each examination that each applicant must successfully complete shall be specified.

8. Qualifications for Written Examinations

A. Minimum Qualifications

The minimum qualifications for a classification shall be considered part of the examination process. Minimum qualifications are those skills, knowledge, and abilities required for each Position. The qualifications contained in the Position Description shall be followed in determining admittance to examinations.

The minimum qualifications for a Position must be made a part of the announcement of an examination. Modifications to the minimum qualifications shall not be permitted after publication of the announcement.

B. Age Requirements for Applicants or Examinees

Justifiable minimum and maximum age requirements may be established for appointment to Positions in the police and fire departments, or in other departments where a Bona Fide Occupational Qualification has been obtained and approved by the Ohio Civil Rights Commission.

9. Restriction as to Age, Physical, or other Requirement

Any restriction for appointment from an Eligible List as to age, physical or other requirements shall be made prior to and stated in the announcement of the examination and no Eligible List shall be restricted unless it has been set forth in the examination announcement.

10. Assessment Centers

Assessment centers may be utilized to determine candidate qualifications for Positions that require particular supervisory or managerial skills.

11. Lateral Transfer

In addition to appointments to original positions as Police Officers and Firefighter/Paramedics from a certified eligible list, appointments may also be made from the Lateral Transfer List in accordance with the following provisions.

- A. The Civil Service Commission shall advertise and accept applications, for a period to be determined by the Commission or for an indefinite period of time if designated by the Commission, for applicants to be placed on a Lateral Transfer List.**
- B. To be eligible to be placed on this Lateral Transfer List the applicant must submit certified documentation to the following:**
 - a. Police: Be currently Ohio Peace Officer Training Academy (OPOTA) certified as an Ohio Peace Officer as set forth in Chapter 109 of the Ohio Administrative Code.
Fire: Be State of Ohio Certified FFII (or equivalent accepted by the State of Ohio) and State of Ohio Certified Paramedic.**
 - b. Police: Be currently employed a minimum thirty (3) hours per week as an OPOTA certified Ohio Peace Officer in a jurisdiction in the State of Ohio as defined in Section 109.71 of the Ohio Revised Code.
Fire: Worked 2,496 hours with a part-time or full-time Fire Department in the State of Ohio within the last year.**
 - c. Pass the physical agility test administered by the Police-Fire Department or administered on its behalf, unless so waived by the sole discretion of the Appointing Authority due to the passing of a similar test administered by their current employer.**
- C. Prior to being placed on a Lateral Transfer List; every applicant shall submit to the Director of Human Resources the following: in addition to the certified documentation set forth in Section 11B of this rule:**
 - a. The reason the applicant has decided to leave the applicant's current employment.**
 - b. The type of agency or entity that employed the applicant in the past.**
 - c. Any public safety certifications obtained by the applicant.**

If the Director of Human Resources determined that the applicant meets the criteria set out in Section 11(B) and should not be disqualified as a result of information obtained in Section 11(C), the Director of Human Resources shall place the applicant on the list, and forward the list to the Civil Service Commission. There will be no ranking of the applicants on the list. The Commission shall then certify the list if it determines it to be in compliance with the Commission's Rules. The Commission has the discretion to leave the time period for the Lateral Transfer List open for an indefinite period of time; however, the Commission must certify any applicant on the Lateral Transfer List before that applicant is eligible for the appointment.
- D. Before certifying any name from the Lateral Transfer List to the Appointing Authority for a possible appointment the Director of Human Resources**

and/or the Safety Director and/or a representative from the Police Department may screen the Lateral Transfer candidate as follows:

- a. Conduct a personal interview with the individual.**
- b. Conduct a background check and consider the results.**
- c. Consider the results of any drug screening test.**
- d. Consider the results of any polygraph examination.**
- e. Consider the results of any psychological or medical examination.**
- f. Consider any other job related factors deemed appropriate.**

The individual(s) screening the candidate may make recommendations to the Appointing Authority as to each candidate screened.

RULE X

ELIGIBLE LISTS

1. Duration of Lists

A Certified Eligible List of names is valid for one (1) year with the option of two (2), six (6) month extensions. Extensions shall be at the request of the Appointing Authority. Any list that has been in effect for more than one (1) year may, at the discretion of the Commission, be terminated at any time in the public interest.

2. Applicants Receiving a Tie Score

The tie-breaker for two (2) or more candidates receiving the same score on an Entrance Examination shall be determined in favor of the person whose application was timestamped/received first by the Commission.

3. Disqualification of Eligible Candidates

The Commission may disqualify a Candidate from a Certified Eligible List for the following reasons:

- A. Commission believes the Candidate made false statements within the application;
or
- B. candidate cannot fulfill the job duties of the Position with or without accommodations; or
- C. failure to file written notice of change of address with the Commission; or
- D. failure to report for, or schedule an interview with, an Appointing Authority within six (6) days of receipt of a phone call, voice mail, or email; or
- E. declines an appointment for a position with the City; and
- F. upon request of the Appointing Authority for reasons consistent with these Rules and approved by the Commission.

Candidates removed for any of the above reasons shall be notified and given an opportunity to be heard by the Commission. If such person fails to appear for the

Commission Hearing, or upon being heard, fails to satisfy the Commission, his name shall be removed from the relevant Certified Eligible List for cause.

4. Revocation of List

A Certified Eligible List or 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 inappropriate standards prescribed in connection with any examination. All applicants in the first examination shall be notified and shall be permitted to compete in the rescheduled examination without completing a separate application. No Certified Eligible List or Eligible List shall be altered or revoked except upon written notice to all persons whose standing may be affected and upon an entry in the minutes of the Commission of the reasons for such alteration or revocation.

5. **List Below Ten (10) Candidates:** When either eligibility list for the position of **Police Officer or Firefighter/Paramedic** falls below ten (10) candidates the Commission, in its sole discretion, may terminate the list and advertise to create a new list or it may maintain the list as is with less than (10) candidates.

6. **Appointments from the Police Officer or Firefighter/Paramedic Eligibility Lists:** Notwithstanding anything to the contrary in these Rules and Regulations, appointments from the Police Officer Entrance Examination or Firefighter/Paramedic Entrance Examination and the Lateral Transfer List shall be made by the Appointing Authority as follows:

A. When a vacancy is to be filled, the Commission will certify the top ten (10) names remaining on the Entrance Examination, as modified by Rule X, and the entire Lateral Transfer List to the Appointing Authority. The Appointing Authority, within his/her discretion, may make the necessary appointment from either list.

B. The Appointing Authority is encouraged to not make appointments from one list over the other for more than two (2) successive hiring periods without making an appointment from the other list.

SECTION 2. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were meetings open to the public in compliance with the law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, convenience and welfare of the City of Barberton and the inhabitants thereof, for the reason that there are current vacancies and upcoming retirements within the City, and provided it receives the necessary votes required by the City Charter, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Passed March 13, 2023

Clerk of Council

President of Council

Approved _____ 2023

Mayor