ORDINANCE NO. 2019-11

AN ORDINANCE REPEALING EMERGENCY ORDINANCE NO. 2002-28, AND SUBSEQUENT AMENDMENTS THERETO, AND ADOPTING PERSONNEL BOARD RULES AND REGULATIONS AS SET FORTH HEREIN.

WHEREAS, the Personnel Board has reviewed and recommended approval of the Personnel Board Rules and Regulations as prepared by Clemans, Nelson and Associates, Inc.; and

WHEREAS, Council has reviewed and approves the adoption of the Personnel Board Rules and Regulations as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: Emergency Ordinance No. 2002-28, and subsequent amendments thereto, is hereby repealed.

SECTION 2: The Personnel Board Rules and Regulations set forth on Exhibit "A" attached hereto and made a part hereof are hereby adopted.

SECTION 3: This measure shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: April 9, 2019

ATTEST:

Clerk of Council

First Reading: March 26, 2019

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Sunshine Law, Section 121.22 of the Ohio Revised Code.

APPROVED:

Mayor

"I, the undersigned Clerk of Council of the city of Monroe, Ohio, hereby certify the foregoing (ordinance or resolution) was published as required by Section 7.16 of the Charter of the City of Monroe.

Clerk of Council
City of Monroe, Ohio

Exhibit "A" Ord No. 2019-11

Personnel Board

of

City of Monroe, Ohio

Rules and Regulations

Adopted by Personnel Board: 01-31-2019

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Preamble

The following rules and regulations are adopted in accordance with the authority conferred upon the Municipal Personnel Board of the City of Monroe, Ohio, under the authority of Articles XV and XVIII and other provisions of the Constitution of the State of Ohio, the Charter of the City of Monroe, and the Ordinances of the City of Monroe, Ohio.

Inquiries regarding Personnel Board matters or rules should be addressed to the Personnel Board, City of Monroe, 233 S. Main Street, Monroe, Ohio 45050.

Personnel Board

_____

_____

_____

_____

_____

_____, Secretary

Chapter One

Applicability of Rules

1.1 Scope of Rules

A. These rules shall be applicable to all personnel matters for the City of Monroe, except to the extent that the same are superseded or preempted by the specific terms, provisions, and content of a collective bargaining agreement entered into by and between the City of Monroe and a public employee collective bargaining representative, pursuant to Chapter 4117 of the Ohio Revised Code, to the extent that said preemption is permitted by law.

B. No person shall be appointed, removed, transferred, laid off, suspended, reinstated, promoted, or reduced as an officer or employee in the classified service of the City of Monroe, Ohio in any manner or by any means other than those prescribed in these rules.

1.2 Construction

These rules should be construed so as to carry out their purposes as determined from both literal reading of the rules and their context. The rules should be construed and applied in a manner that is consistent with the laws of the State of Ohio, except to the extent that the letter or context of City ordinances indicates that the City intended to supersede, preempt, or otherwise override state law through valid exercise of Home Rule. The rules should not be construed so as to limit the City's power to exercise Home Rule. Nor should the rules be construed in a way that limits the Personnel Board's power to interpret and apply the rules within the scope of their lawful authority. The term "ordinance" in these rules is meant to include formal ordinances, resolutions, or any other actions of Council that are sufficient to carry out exercises of Home Rule or other powers of Council. References to "rules" and "regulations" are interchangeable, unless indicated otherwise.

1.3 Adoption, Amendment, Rescission

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

1.4 Publication

No action of the Board adopting a rule or regulation, or amendment, revision, or rescission of the same shall be effective until notice of the same with summary of its content has been prominently displayed in the places of employment of the City of Monroe, Ohio, which are

frequented on a regular basis by classified employees and officers of said entities in the discharge of their official duties, and the content of the same has been made available for public view.

1.5 New Rules

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

1.6 Savings Clause

If any section or part of a section of these rules is held by a court of competent jurisdiction to be unconstitutional, or to be invalid of any other reason, said action shall not invalidate or impair the validity, force, or effect of any other section or part of a section of these rules, unless it clearly appears that such other section or part of a section of these rules is wholly or necessarily dependent for its operation under the section or part of a section which has been held invalid.

Chapter Two

Definitions

The terms herein specified, and as used in the Rules and Regulations of the City of Monroe, Ohio Personnel Board, shall be defined as follows:

A. **"Application"** means any form or group of forms issued or required by the Board that an individual seeking employment or promotion must satisfactorily complete in order to successfully complete the process of informing the Appointing Authority of his or her availability and desire to be considered for employment, promotion, or for any other purposed as determined by the Board.

B. **"Appointing Authority"** means the officer, board, or body having the power of appointment to, or removal from, positions in office, department, board, or institution and shall include the following:

   1. City Manager of the City of Monroe.

   2. Any other entity having legal authority to appoint and/or remove.

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

D. **"Board"** means the Personnel Board of the City of Monroe, Ohio.

E. **"Certification"** means the process of providing to an appointing authority the names on an eligible list or layoff list.

F. **"Certified Eligible List"** means a list of individuals issued to an appointing authority of individuals available for employment from an eligible list, layoff list, or of provisional's who qualify for certified status.

G. **"City"** means the City of Monroe, Ohio.

H. **"Classified Service"** means those persons in the employ of the City of Monroe, Ohio who are now in competitive service status due to their job positions to the local situation. All other employees and positions shall be "unclassified." Classified status may be determined as provided for in the City Charter or by local ordinance. In any situation in which the status of an employee, as being either classified or unclassified, is in issue, the burden shall be upon the appointing authority to establish such status by preponderance of evidence.

I. **"Days"** means calendar days unless specified otherwise.

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

K. **"Eligible List"** means a list of names and test scores of individuals who, through testing and meeting the other qualifications of a position, have been found qualified for the same, and each of whom had been afforded a specific competitive rank in relation thereto by arrangement based on total scores achieved.

L. **"Employee"** means any person holding a position subject to appointment, removal, promotion, or reduction by an appointing authority.

M. **"Examination"** means an evaluation of one (1) or more applicants' suitability for employment in a particular position and/or classification in accordance with these Rules. An examination may consist or an evaluation of training and experience, an assessment center, and/or a written, oral, or other test, etc. The type of examination may depend on the position to be filled.

N. **"Exempt Appointment"** means an appointment to a position is not subject to an examination.

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

P. **"Municipal Service"** shall include all positions in the Classified service of the City of Monroe, Ohio.

Q. **"Position"** when used by itself, shall refer to any specific office, employment, or job, calling for the performance of certain duties, either full time or part time, and for the exercise of certain responsibilities by one (1) individual.

R. **"Position Classification"** refers to the arrangement of positions into classifications. Positions shall be classified in accordance with the duties and responsibilities of the position.

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

T. **"Rules"** means the Rules and Regulations of the Personnel Board of the City of Monroe, Ohio.

U. **"Secretary"** means the Secretary to the Personnel Board of the City of Monroe, Ohio.

V. **"Specification"** means a general description of a job classification specifying or giving examples of the kinds of tasks expected to be performed by employees holding positions allocated to that classification; which may include a classification title, a statement of job

functions, a grouping of task statements by job duties, and may include worker characteristics or behaviors required for successful completion of all tasks within each duty, and minimum qualifications for competition for employment in the classification.

W. **"Unclassified Service"** means all offices and positions that are exempt from examination and which provide no tenure. Unclassified status may be determined as provided for in the City Charter or by local ordinance, and the rights of the affected employee are determined accordingly.

X. **"Vacancy"** means an existing funded and unfilled position that an Appointing Authority desires to fill. The existence of vacant positions on an Appointing Authority's table of organization or roster of positions shall not imply the availability of a vacancy.

Chapter Three

General Provisions

3.1 Appointments to the Board

The Personnel Board shall consist of five (5) members who shall be appointed by Council for five (5) year terms. Effective January 1, 2002, the existing appointees shall complete their prior appointed terms and three (3) individuals shall be appointed, one (1) to serve a term of three (3) years, one (1) to serve a term of four (4) years and one (1) to serve term of five (5) years. The Council shall fill all vacancies by appointment for the unexpired term. Members shall be electors of the City holding no compensated position therein.

3.2 General Duties of the Board

The Personnel Board shall:

A. Prescribe, amend, and enforce rules for the classification of positions in the municipal service of the City; for examinations and registrations for and resignations from positions; for appointments, promotions, removals, transfers, layoffs, suspensions, reductions, and reinstatements to those positions; and for standardizing positions and maintaining efficiency;

B. Classify positions in the service of the City;

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

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

E. Maintain a journal, which shall be open to the public for inspection, in which the Board shall keep a record of its proceedings and of the vote of each of its members upon every action taken by it, along with a record of the Board's final decisions pertaining to classification or reclassification of positions in classified service of the City and the assignment or reassignment of employees to specific position classifications;

F. Keep and maintain the following records:

1. A compilation and listing of all of the current and existing authorized positions within the Municipal Service of the City;
2. A current description as to the duties and responsibilities of the same; and retain on file documents and records related to job and employment actions as to each such position;

3. A record of all applications and all examinations conducted by the Board;

G. Hear appeals provided for by law, including: appeals of the appointing authority from decisions of the Personnel Board relative to classification or reclassification of any position in the classified service under the jurisdiction of the appointing authority; appeals of employees in the classified service from final decisions of the employee's appointing authority relative to demotion, job abolishment, layoff, suspensions of more than five (5) days, fine of more than five (5) days, or discharge; however, adverse actions based on certain felony convictions may not be appealed; furthermore a party may not file a second appeal from a decision of the Board that results from an appeal - although, the Board may allow motions for reconsideration;

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

I. Furnish to the City Manager any special reports that the City Manager requests and prepare and submit to the City Manager an annual report showing the Board's actions, rules, exceptions thereto in force, and any recommendations for the more effectual operation of the Board;

J. Appoint such additional referees (including hearing officers), inspectors, examiners, clerks, assistants, and/or other employees as are necessary to assist and serve the Board in its exercise of its duties, powers, functions, and responsibilities and/ or contract for such services (e.g. consulting services to assist with classification of positions), provided that City Council has properly approved and appropriated the funds for the expense associated with the foregoing; furthermore, the Board may delegate any functions it performs to any other City administrative office, or make use of such personnel or services as the City shall provide to assist the Board;

K. Exercise all other powers and perform all other duties with respect to the municipal service of the City as prescribed in the Monroe Charter and ordinances of City Council.

L. To the extent these rules and regulations conflict with the Charter, the Charter shall prevail.

3.3 Officers: Agents, Expenses, and Salaries of the Board

A. Election and Duties of the Chair and Co-Chair

The Personnel Board shall elect one (1) of its members as Chair of the Board, and one (1) as Co-Chair, who shall each serve two (2) year terms until their successors are elected:

1. To call such meetings of the Board as are necessary to transact the business and affairs of the Board;
2. To sign the minutes of all action taken by the Board;
3. To preside at all meetings of the Board;

In the absence of the Chair, the Co-Chair shall act as the Chair of the Board.

B. Appointment and Duties of the Secretary

The Board shall appoint a suitable person to act as Secretary to the Board, who shall also act as its Clerk. In the absence of the Secretary, the Board may appoint a member of the Board or another person to act as the temporary Secretary of the Board in the place of the Secretary. A Board member who serves as Secretary shall not receive any compensation for said service. The Secretary shall perform the following duties:

1. Attend all meetings of the Board and keep the minutes thereof;
2. Keep in the form of minutes a record of the official actions of the Board;
3. Be available in the municipal administration building during regular business hours for the purpose of receiving calls, accepting service of filings, and providing access to Board records;
4. Process all applications;
5. Accurately and properly maintain all of the records of the Board;
6. Keep all files in proper order;
7. Prepare and deliver, or cause to be delivered, notices, and other communications ordered by the Board;
8. Properly furnish appointing authorities with eligibility lists;
9. Maintain an official roster and service lists;
10. Handle such correspondence as the Board shall determine;
11. Make available to the public those documents deemed to be public records under the terms of R.C. 149.43;
12. Perform other duties as assigned by the Board.

C. Appointment of Special Hearing Officers, Examiners, Etc.

The Personnel Board may appoint hearing officers, special examiners, and additional clerks, assistants, and other employees, contract for services necessary to assist the Board in carrying out its functions, or make use of services of the City, as provided in Section 3.02(K) above.

D. Expenses and Salaries of the Board

The expenses and salaries, if any, of the Board shall be determined by City Council.

3.4 Removal

The Council may at any time remove any member of the Personnel Board for inefficiency, neglect of duty, or malfeasance in office, having first given the member a copy of the charges against him, and an opportunity to be publicly heard in person or by counsel in his defense.

3.5 Meetings of the Board

A. The first annual meeting of the Personnel Board shall be its organizational meeting. The Board shall normally meet quarterly, and shall hold such other meetings as may be called by the Chair of the Board, or by three (3) members thereof.

B. All meetings of the Personnel Board are open to the public, except as set forth in R.C. 121.22 and this rule.

C. General minutes shall be taken at all Personnel Board meetings and shall be open to public inspection.

D. The Chair of the Board may, on his own initiative, and shall, upon the request of the other three (3) members of the Board, call a special meeting of the Board to be held not later than ten (10) days from the date of notice of such meeting. Three (3) members of the Board shall constitute a quorum at any meeting of the Board, and it shall require the affirmative vote of at least three (3) members to adopt any motion or resolution.

E. Twenty-four (24) hours advance notice of any meeting of the Personnel Board must be given to the local news media and to other media that have requested notification, except in the event of an emergency requiring immediate official action. Any other person, upon request and payment of one dollar ($1. 00) per meeting, may obtain reasonable advance notice of all meetings at which any specific type of public business will be discussed.

F. In the event of an emergency, the Chair, the members calling the meeting, or a

designee must immediately notify the local news media concerning the time, place, and purpose of the meeting.

G. An executive session may be held only after a majority of the members, by roll call vote, have approved such action. Such executive session may be convened to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a municipal employee, unless such employee requests a public hearing. The motion and vote to hold the executive session shall state which one (1) or more of these purposes are the purposes for which the executive session is being held, but need not name the person who is to be considered during the session. Executive session may also be held for other reasons enumerated in R.C. 121.22 and the other laws and regulations incorporated therein. Minutes of any executive session shall be appropriate to the nature of such executive session.

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

1. Roll call;
2. Disposition of unapproved minutes;
3. Reports;
4. Unfinished business;
5. New business;
6. Adjournment.

3.6 Procedure for the Adoption, Amendment, or Rescission of Rules

A. Public notice as to the adoption, amendment, or rescission of any rule of the Personnel Board must be given to the local news media at least thirty (30) days prior to the date set for hearing and consideration of the rule. Revisions following the initial notification are not subject to the thirty (30) day notice requirement.

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

C. Sections A and B above do not apply to an emergency rule, amendment, or rescission or to any rule, amendment, or rescission required by state or federal law or regulation.

D. Personnel Board rules shall be adopted at an open meeting by a majority vote and entered into the minutes. Interested parties may provide input in writing preferably in advance, or offer written or oral input at the meeting(s) called to consider the rules or rule changes. Copies of the rules or rule changes, together with the minutes of the Personnel Board adopting the change/will be kept by the designee of the Board and made available to any person upon request. Due notice of the contents of such rules and of all changes shall be given to appointing authorities affected by such rules, and such rules shall also be printed for public distribution.

3.7 Service Records

The Board or its designee shall keep records containing the name of every person employed by the City; the date of his appointment; the title of his position; the date of termination of employment or separation there from, if any; the designation of said employee and the position in which he serves as being in the classified or the unclassified service of the City. In the case of classified positions, such records shall also show the dates of promotions, if any; the dates of suspension, if any; and in the case of termination of employment or separation there from, if any, the cause for same. Such records shall be updated and revised periodically.

Chapter Four

Classified and Unclassified Service

4.1 Division of the Municipal Service into Classified and Unclassified Service

The merit service of the City of Monroe shall be divided into the classified service and the unclassified service:

A. Unclassified Service

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

1. All officers elected by popular vote, or persons appointed to fill vacancies in such offices;
2. The members of all boards, commissioners, agencies, and authorities appointed by the Council and/or by Charter;
3. The Clerk of Council;
4. The City Manager;
5. All department heads;
6. One (1) personal secretary to the Manager and one (1) clerk or deputy to the Law Director, Treasurer, and each department lead;
7. Employees of exceptional professional or scientific qualification engaged as consultants;
8. The Law Director, Assistant Law Directors, and Special Counsel;
9. Volunteer personnel in the Department of Fire and Auxiliary Police within the Department of Police;
10. Secretary of each board and commission established by Charter or Council provided that if such secretary holds other employment within the classified service of the Municipality, such person shall not be exempted from the requirement of competitive examination to hold other such employment;
11. Temporary employees who are not employed for more than ninety (90) continuous days or for more than ninety (90) work days in one (1) year;
12. Unskilled laborers as defined and authorized by council;
13. Other positions designated as unclassified by ordinance or law.

Omission of any such unclassified position or person from the foregoing specific list of unclassified shall not be construed as an intention to render that person or position classified.

4.2 Classified Service

The classified service shall comprise all persons in the employ of the City of Monroe, Ohio not specifically included in the unclassified service. The classified service shall consist of all positions and employments in the service of the City of Monroe not included in the unclassified service for which it is practicable to determine the merit and fitness of applicants by competitive examinations.

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

Chapter Five

Applications

5.1 Generally

All applications, whether for employment or for examination, must be submitted upon forms prescribed by the Personnel Board or designee and shall require the applicant to personally certify the truth and accuracy of the information contained in the application. All application forms must be completed in their entirety and legibly printed in ink or type written and submitted to the Personnel Board or designee in a timely manner. The Board will provide a reasonable accommodation, if necessary, to assist an applicant in completing the form.

The Appointing Authority may accept electronically submitted applications for employment if so stated in the job notice. If electronically submitted applications are permitted, the Appointing Authority must append to each application a document that clearly states the date and time that such application was received.

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

5.2 Forms

Application forms shall be provided by the Personnel Board and shall be available in the office of the City Manager or at other locations as announced by the Personnel Board.

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

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

5.3 Method of Filing

Fully completed applications containing or accompanied by all of the information and accompanied by all of the documentation solicited by the application or the job notice, and executed by the applicant or his properly authorized agent, shall be filed with the Secretary of the Personnel Board or with such other employee or agent of the appointing authority as is indicated in the job notice. The Personnel Board or designee shall maintain registers which contain the name of each applicant, evidence of the receipt of the application thereof, and the

documents which accompany the same.

5.4 Residency Requirements

Every applicant for a position in the classified service must be a citizen of the United States or must legally declare and signify in writing his or her intention to become, upon appointment, a citizen of the United States.

5.5 Age Restrictions: Police and Fire

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

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

B. Applicants for original appointment examinations in the Fire Department must have attained the age of eighteen (18) years on or before the date of the written examination; furthermore, no person may apply for or receive an original appointment as a firefighter if that person has attained the age of thirty-five (35).

5.6 Licenses, Certifications, Education, and Training

Every applicant shall have, and shall be able to demonstrate that he or she possesses, the required licenses and certifications, and the education, training, or equivalent qualifications required of the position for which the application is made. Every applicant must possess a high school diploma or GED and valid Ohio driver's license. A candidate shall provide the Personnel Board with reasonable and adequate proof thereof when the Board requests such information from all candidates for a position, or when the Board has sufficient reason to believe that the applicant may not possess such qualifications. In particular, the Board shall not establish any education requirements as a prerequisite for examination that are not necessary to the performance of the position to be filled.

5.7 Character and Fitness

Satisfactory information produced at any time to the Personnel Board, either before or after examination, that an applicant has committed acts which demonstrate character traits which would be detrimental to the successful performance of the employment sought; or of his pattern poor work habits and performance with previous employers; or of his dismissal for good cause, including delinquency or misconduct, from any branch of public service; or for his conviction of a felony; or that of his current illegal use of drugs; or of his infamous or notoriously disgraceful conduct; or that he, in relation to the application or examination, in establishing his eligibility, and/or in securing his appointment, the applicant has practiced, or attempted to practice any deception

or fraud shall justify the Personnel Board, before an examination, in refusing to permit the examination of an applicant, or, after testing, in refusing to certify the applicant as eligible for employment or appointment. In relation to such inquiries the Personnel Board may require such certificate of persons having knowledge of the applicant as the good of the municipal servicemay require.

5.8 Acceptance or Rejection of Application and Notice to Applicants

The completed application and requested documentation, information, and material requested therewith and secured in relation thereto shall be the sole criteria in determining an applicant's eligibility for an examination. Information showing that an applicant meets all of the minimum qualifications as stated in an examination announcement must appear on the application itself. No additional information will be accepted from the applicant or on behalf of the applicant after the application filing deadline.

Applicants whose applications are accepted shall be given notice of the date, time, and place of any examination. Such notices shall be given at a reasonable time before the examination date, and shall apprise applicants that reasonable accommodations are available to disabled persons to afford them access to the examination process.

Failure of an applicant to indicate on his or her application his or her qualifications as to education, certification, licensing, or any other requirement shall be sufficient cause to exclude an applicant from examination. Whenever a submitted application shows that an applicant is not qualified under these Rules for consideration for a position for which he or she has made application, or that the application is not in reasonable and substantial compliance, the Secretary of the Board or the Board shall reject the application, and the Secretary, shall forthwith notify the applicant in writing of that action and of the reason for the same.

Certification to an eligibility list of an individual who has not met all of the requirements of these Rules shall not be considered a waiver of any requirements of these Rules, and shall not bar removal of the applicant from an eligibility list by the Board as a result of said failure.

5.9 False Statements

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

5.10 EEO Applicant Flow Information

The Personnel Board shall approve for use a form to be used in documenting EEO applicant flow statistics.

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

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

5.11 Fitness for Service

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

B. Applicants to whom conditional offers of employment in positions within the Division of Police and the Division of Fire of the City of Monroe shall be required to undergo psychological evaluations, medical examinations, background investigation, truth verification testing, and drug testing administered by appropriate, licensed medical professionals selected and designated by the Board, and to provide information as to their physical and psychological health which is relevant to their ability to perform the essential functions of the position in relation to which a conditional offer of employment has been tendered, with or without reasonable accommodation. The Personnel Board may order physical agility tests where applicable; except, however, for the Division of Fire where a physical agility test shall be required of those applicants to whom conditional offers of employment have been made. Applicants to whom conditional offers of employment have been made to the Division of Fire shall also undergo an EMS Skill Station test.

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

Chapter Six

Examinations

6.1 General

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

B. Examinations may include an evaluation of such factors as education, training, capacity, knowledge, manual dexterity, and physical or psychological fitness. The examinations may consist of one (1) test, or of more than one (1) test in combination. Tests may be written, demonstration of ability to perform essential functions, or an evaluation of training and experience, and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the person for which appointment is sought. Tests may include structured interviews, assessment centers, work simulations, examinations of knowledge, skills and abilities, and any other acceptable testing methods. Where minimum or maximum requirements are established for any examination, the same shall be specified in the examination announcement.

6.2 Types ofExaminations

There shall be two (2) types of examinations administered by the Personnel Board in accordance with these rules, to wit: examinations for original appointments, and examinations for promotion. Examinations for original appointments shall be open to all individuals who otherwise qualify for appointment to or employment in a position under these rules. Examination for promotion shall be limited to members of the classified municipal service who meet the requirements for promotion to a position under these rules, provided that promotional examinations may be opened to qualified candidates from outside the municipal service upon recommendation of the City Manager.

6.3 SeparateExaminations

Separate examinations shall be given and separate eligible lists shall be maintained by the Personnel Board as to separate positions and classifications within the service of the appointing authority. Separate examinations shall be given for positions in the Police Department and Fire Department, and separate rules may apply with respect to each. No person may be transferred from one (1) list to the other, but a single test or combination of tests may be utilized to examine and evaluate applicants for similar positions or classifications. Appointments and promotions shall be effected only from the separate

eligible lists which are applicable. Transfers of personnel from between the Division of Fire and the Division of Police of the City, or between said Divisions and any other division or department of the City are prohibited.

6.4 Examinations: Required Number of Applicants and Provisional Appointments

A. No competitive examination will be administered unless there are at least two (2) applicants. In the event that only one (1) person applies for an original appointment examination, a provisional appointment may be made, provided that the appointee otherwise meets the minimum qualifications.

B. A person serving as a provisional employee who passes an examination for the position which he holds shall be appointed as a permanent certified employee prior to the preparation of an eligible list by the Personnel Board.

6.5 Examination Notices and Sites

A. Examinations for original or promotional appointments shall be held at such times and in such places as the Personnel Board deems appropriate, and shall be administered in accordance with the applicable sections of these regulations.

B. Printed public notice of each examination for original appointment in the classified service shall be placed in a newspaper of general circulation in the City on at least one (1) occasion not more than sixty (60) nor less than thirty (30) days prior to the examination date. All notices shall include the time, place, and general scope of the competitive examination. Notices may also be posted electronically by the Secretary of the Personnel Board. Notices of all examinations for original appointments in the classified service may also be distributed to such persons or organizations as may be interested in the positions to be filled.

C. Notice of promotional examinations shall be posted by the Secretary of the Personnel Board in conspicuous places in each department in which employees would be eligible to compete for such promotion. Such notices shall be posted not more than sixty (60) nor less than thirty (30) days prior to the examination date, and shall include the time, place, and general scope of the competitive examination.

D. The Board may take such additional steps as it deems appropriate and advisable to effect notice of an examination, and to secure qualified applicants from the same.

6.6 Scope of Examination: Subjects

Examinations for original appointment may include written, oral or physical testing and may include demonstration of skill, and/or evaluation of training and experiences. Written tests may be prepared, conducted and graded by persons designated by the Personnel Board.

Examinations shall be practical in character and shall relate directly to those matters

which will fairly test the relative capability of the person being examined to discharge the particular duties of the position for which appointment is sought.

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

6.7 Original Appointment Exams: Police and Fire

A. In relation to examinations for positions within the Division of Police and the Division of Fire of the City, examinations for original appointments may include written testing, oral testing, physical fitness and/or an assessment center. One (1) or more tests may be conducted at the same examination.

B. If the written test is done at the same time/examination as another test, results will be scored from the written test first. The applicant must pass the written test before the scores of the assessment center or other tests will be considered.

C. If oral examinations of qualified applicants are given, they shall be prepared, conducted and evaluated by an Interviewing Board designated by the Personnel Board. Satisfactory completion of the oral portion of the examination, without consideration of any credits provided for by these rules, shall be required as a prerequisite for further consideration for employment or appointment, and for certification to an eligible list.

6.8 Medical, Physical, Psychological, or Drug Testing

A. **General**

Whenever physical or psychological qualifications are of special importance, the applicant shall be required to pass a physical or psychological examination and be certified as qualified in such respect, whether before admission to the examination, or before being placed on the appropriate eligible list, or before certification for appointment, as the Board may deem advisable. Examinations must be job-related and based upon classification related necessity.

B. **Controlled Substances**

Such examinations may include a screening for the use of controlled substances, and will be conducted in accordance with any applicable state or federal laws and regulations regarding the same, including the Department of Transportation Rules and Regulations for Commercial Driver License holders.

C. **By Whom Conducted**

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

D. Results Confidential

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

E. Reasonable Accommodation

Any applicant or candidate who feels that he has been adversely affected by the physical element may request that a "reasonable accommodation" be investigated by the appointing authority. Requests for such accommodation must be filed as soon as reasonably possible, must be in writing, and must outline the accommodation requested. Such requests must be filed with the Board and with the Appointing Authority. The Board will then schedule an informal fact-finding meeting to discuss the issue of accommodation and will release its finding within five (5) working days of the conclusion of the informal fact-finding. Such meetings will be held in executive session.

6.9 Admission of Applicants to Examination

No applicant shall be admitted to any assembled examination at any time after the examination begins, except by special permission of the person in charge, who, in his discretion, may admit the applicant conditionally, subject to the final approval or disapproval of such admission by the Board.

6.10 Identity of Entrance Examiners Concealed

The identity of all persons taking competitive entry level assembled examinations shall be concealed by the use of an identification number which shall be used on all examination papers or by another process which ensures impartial grading. Each applicant who is admitted to the examination shall be assigned a number by which that applicant shall be known during the examination and consideration process unless other steps have been taken to ensure impartial grading of exams. Any examination bearing the name of the applicant or any other identification mark shall be rejected and the candidate so notified unless additional steps are taken to ensure impartial grading of examinations.

6.11 Extension of Time in Examination

No applicant shall be given a longer time on any subject than has been prescribed by the Board for the completion of an examination. Separate time limits may be established as a reasonable accommodation to a handicapped or disabled applicant. Requests for additional time, or accommodation, must be submitted with supporting documentation at the time of filing application for the examination.

6.12 Visitors at Examinations

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

6.13 Postponement or Cancellation of Examination

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

6.14 Waiver

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

6.15 Promotional Examinations

A. Vacancies in positions in the classified service shall be filled insofar as practicable by promotions. All examinations shall be competitive and may include written tests, oral tests, assessment centers, and/or an evaluation of training and experience, and shall relate to those matters which test the ability of the person being examined to discharge the particular duties of the position sought.

B. The identity of all examination applicants shall be concealed by the use of an identification number which shall be used on all examination papers or by another process which ensures impartial grading. This identification number shall be used from the beginning of the examination until all the examination papers have been rated unless other steps are taken to ensure impartial grading of exams. Any papers bearing the name of the applicant, or any other identification mark, shall be rejected and the applicant so notified, unless additional steps are taken to ensure impartial grading of examinations.

6.16 Limitation on Original Appointments: Police and Fire

Positions above the rank of police officer in the Division of Police or regular firefighter in the Division of Fire may not be filled by original appointment.

6.17 Promotional Examinations: Fire

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

B. The public notice of a holding of a promotional examination for a position or positions in the Division of Fire shall, unless waived by all persons eligible to participate, be published not less than thirty (30) days prior to the examination,

and shall contain a description of the source of the material from which any written examination questions are prepared. Such source material shall be readily accessible to the examinees. Failure to comply with this requirement shall render void the pursuant examination. This paragraph shall not prohibit the use of questions having answers based upon experience in the fire service within the Division of Fire of the City of Monroe, Ohio.

Chapter Seven

Grading, Additional Credit, and Inspection

7.1 Grading Examinations and Addition of Extra Credit Generally

A. The following are the rules for grading examinations and granting extra credit, except to the extent these rules have been superseded by collective bargaining agreements between an Appointing Authority and a public employee collective bargaining representative.

B. The addition of extra credit shall be administered as follows:
   a. Applicants for original and promotional appointment shall be entitled to only such extra credit as is set forth in this Chapter.
   b. In scoring all original and promotional examinations, no extra credit shall be given to any applicant, unless such applicant has achieved the minimum passing score on the examination in its entirety.

7.2 Minimum Passing Score

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

B. Where such minimum passing score is unavailable from the professional testing service, and if the Board has not established another minimum passing score, the minimum passing score will be seventy percent (70 %). However, if at least two (2) applicants do not pass, the test will be re- administered.
If the test includes multiple portions, for example, the use of a written test plus an oral test, the Board will score all portions of the test before determining that an applicant can receive extra credit that can only be granted to those achieving the minimum passing score.

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

7.3 Original Appointment – Uniformed Service Credit and Veterans Preference

A. Any applicant or original appointment, who has completed service in the uniformed services as described in ORC 124.23, who was honorably discharged or transferred to reserve duty with evidence of satisfactory service, and who otherwise meets the qualifications of that section, may file with the Board a certificate of service or honorable discharge for extra credit for such service. The Board shall grant additional

credit of X% of the total grade given in the regular examination to any applicant who files for the extra credit and qualifies, provided that his or her grade was a passing grade.

B. An applicant who receives an additional credit under the preceding paragraph (7.3-A) shall not receive additional credit under this paragraph. A member in good standing of a reserve component in the armed forces of the United States, including the Ohio National Guard, who successfully completes his or her initial entry-level training, shall receive a credit of X% of his or her total grade in the examination, if that grade was a passing grade.

C. Such requests for uniformed service credit must be submitted to the Board as an attachment to the application for employment or examination and must, at the time of submission, be accompanied by proof of uniformed service as described above. Uniformed service credit requested other than in compliance with this provision will not be honored.

D. Any applicant who has received a grade which includes his or her uniformed service credit will be granted a veterans/reservists preference and will thus receive a priority in ranking over any applicant who obtains an equal grade but does not receive the uniformed service credit. Ties among veterans shall be decided by the order in which their applications were filed and will be ordered beginning with the application that was received first. A tie between a veteran and a reserve component member shall be decided in favor of the veteran.

7.4 Original Appointment – Addition of Extra Credit

A. At the discretion of the Board, extra credit for any original appointment may be added to the score of any applicant who achieves the required minimum passing score.

B. The reasons for extra credit may include, but are not limited to: licenses, certifications, educational degrees, skill levels, non-probationary status with the City, or other job related criteria. The criteria for the addition of extra credit for each classification must be pre-approved by a majority vote of the Board and must be included in the all job advertisements and exam notices.

C. Once the Board has approved extra credit for a specific classification the same extra credit criteria must be used for ensuing examination procedures for the same classification unless specifically modified by the Board.

D. Extra credit as provided for in this Section shall not exceed X% of the passing score. The provisions of this Section are not intended to replace or increase the X% uniformed service credit provided.

7.5 Original Appointment Credit Division of Police

All qualified applications for original appointment to the Division of Police, with a minimum passing score pursuant to Section 7.01, shall receive:

A. Military credit of ten percent (10%) with DD-214 showing an

honorable discharge.

B. Training credit of twenty percent (20%) for current Ohio Police Officer Certification.

C. Experience credit of ten percent (10%) for three or more years of full time law enforcement.

D. Educational credits of five percent (5%) for an associate's degree, ten percent (10%) for a bachelors degree, or fifteen percent (15%) for a masters/doctorial degree from an accredited college or university.

The maximum total credit points allowed will be twenty five percent (25%). All supporting documentation for credit must accompany the application.

7.6 Original Appointment Credit Division of Fire

All qualified applications for original appointment to the Division of Fire, with a minimum passing score pursuant to Section 7.01, shall receive:

A. Military credit of ten percent (10%) with DD-214 showing an honorable discharge.

B. Training credit of ten percent (10%) for valid Ohio Paramedic Certification.

C. Training credit of five percent (5%) for Ohio EMT-I Certification.

All supporting documentation for credit must accompany the application.

7.7 Promotional Seniority Credit

A. In promotional examinations, additional credit for uninterrupted seniority within the City shall be added to the examination grade. No credit for seniority shall be added to an examination grade unless the applicant achieves at least the minimum passing score on the examination, absent any extra credit. For purposes of this section, City service interrupted by either military duty or job related injury shall not constitute a break in seniority. An approved leave of absence is not a separation of service, and therefore, seniority service credit for purposes of promotion will continue to accrue during such leave.

B. Credit for seniority shall equal, for each of the first four (4) years of service, one percent (1 %) of the total grade attainable in the promotion examination; and, for each of the fifth (5th) through fourteenth (14th) years of service, six-tenths (.6) of one percent (1 %) of the total grade attainable.

C. Credit for service shall be based only on service within the City. For those employees who are subject to the terms and conditions of a collective bargaining agreement, the definition of the term "seniority" for the purposes of this Section shall be defined in such collective bargaining agreement.

7.8 Inspection and Grading of Examination Papers

A. After any promotional competitive examination has been held, and prior to the grading of such examination papers, any participant in said examination shall have a period of five (5) business days, exclusive of Saturdays, Sundays, and

holidays, in which to inspect the questions, the rating (scoring) keys or answers to the examination, and to file any protest he or she may deem advisable. Such protests must be in writing, contain the authority relied upon, and shall remain anonymous to the Board. All protests with respect to rating keys or answers shall be determined by the Board within a period of not more than five (5) business days following the date on which the final protest is received, exclusive of Saturdays, Sundays, and holidays; and the Board's decision shall be final. If the Board finds an error in the rating key or answers, it shall publish a revised rating key within five (5) business days of the date of its determination of such error or errors. The revised rating key or answer shall then be available to participants for a period of five (5) business days, exclusive of Saturdays, Sundays, and holidays, subsequent to the publication of the revised scoring key.

B. A written report of the grades of the applicants shall be submitted by the testing entity to the Personnel Board, and the results posted at the office of the City Manager and the Personnel Board.

C. After notice of a score has been received, each participant shall have the right to inspect his/her own examination papers together with the rating key. Inspection must occur within fifteen (15) days after receiving notice of the examination grade. The Board shall consider all protests, make changes as warranted and then establish the eligible list. No grades shall be changed after the posting of any eligible list. Inspection shall not be permitted of standardized tests prepared by experts outside of the City's service.

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

E. Any person who inspects the questions, scoring keys, or answers during the periods set forth in Paragraphs (A) or (C), or pursuant to Paragraph (D) of this section, shall be thereafter prohibited from taking the same examination for such a position in the classified service; provided, however, that the Board may waive this prohibition if it finds that the examination and scoring key or answers are not similar to those of the examination that had been examined. Inspection shall not be permitted on standardized tests prepared by experts outside the City service, where such inspection would tend to reduce the validity of tests results.

CHAPTER EIGHT

ELIGIBLE LISTS

8.1 Preparation of Eligible Lists

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

Whenever it becomes necessary to hold a subsequent examination in order to obtain additional eligible candidates, the Board may consolidate existing lists for the same class by rearranging the names of those eligible therein according to their score. All those persons whose names appear on an existing list, which is to be merged with a new list, shall have an opportunity to compete in the second examination.

8.2 Term of Eligible List

The term of eligibility of each list may be fixed by the Board for at least one (1), but not more than two (2) years. When an eligible list is reduced to ten (10) names or less, a new list may be prepared. Any list that has been in effect for more than one (1) year may, at the discretion of the Board, be terminated at any time in the public interest.

8.3 Ties-Original Appointment Eligible Lists

In the event that two (2) or more applicants receive the same score in an original appointment examination, such applicants shall be considered as holding a single place on an eligible list for an original appointment.

8.4 Ties-Promotional Eligible Lists

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

8.5 Disqualification from Eligible List

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

1. Fails to report, or arrange to report, or arrange within a reasonable time for an interview with an appointing authority; or,
2. Fails to respond to a notice from the Personnel Board; or,
3. Provides incorrect or incomplete information to the Personnel Board; or,
4. Fails to respond to request for information during background checks; or,
5. Declines an appointment without reason satisfactory to the Personnel

Board; or,

6. Who cannot be located by the postal authorities;

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

B. In case an eligible person's name appears on more than one (1) list, appointment to a position in one (1) class shall be considered a waiver for appointment from eligible lists for classes in which the salary is equal or lower.

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

8.6 Removal from an Eligible List

Names may be removed from an eligible list by the Personnel Board in accordance with these rules, for the following reasons:

1. The written request of the eligible;
2. The expiration or revocation of the list;
3. Failure of the person listed on the eligible list to fulfill all of the requirements and qualifications set out by or under these rules;
4. The refusal or neglect of the eligible within three (3) days after notice of appointment to accept appointment upon certification, unless a waiver of such appointment is sought by the eligible and approved by the Personnel Board;
5. The failure of the appointing authority to select the eligible upon more than three (3) Certifications; and
6. The death of the eligible.

8.7 Duty of Eligibles

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

8.8 Revocation of Eligible List

An eligible list may be revoked and another examination ordered only when, in the judgment of the Board, such action is deemed advisable by reason of errors, fraud, or obviously inappropriate standards prescribed in connection with any examination. All competitors in the first examination shall be notified and shall be eligible to compete in the rescheduled examination without filing a separate application or 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 and upon an entry in the minutes of the Board of the reasons for such alteration or revocation.

8.9 Separate Lists for Police and Fire

Notwithstanding 8.01, separate eligible lists shall be maintained for original and promotional appointments in Police and Fire Departments. No person may be transferred from one (1) list to the other, and appointments and promotions shall be made only from the eligible lists maintained by each department.

CHAPTER NINE

APPOINTMENTS AND PROMOTION

9.1 Appointments in General

The following are the rules for appointments and promotions, except to the extent these Rules have been superseded by a collective bargaining agreement between the Appointing Authority and a public employee collective bargaining representative. Appointments to all positions in the classified service, other than those that are filled by exempt promotion, transfer, or reduction, as provided in the Rules and Regulations of the Board prescribed under such sections, shall be made only from those persons whose names are certified to the appointing authority.

9.2 Appointment Procedure/Number of Names Certified

A. When one or more vacancies occur in any civil service classified classification, the appointing authority of a department in which a position in the classified service is to be filled shall notify the Board of the classification title and the number of positions to be filled. Upon the receipt of notice of one (1) vacancy in a position to be filled, the Board shall, except as otherwise provided in these rules, certify to the appointing authority the names and addresses of the fifteen (15) candidates standing highest on the eligible list for the class or grade to which the position belongs; provided that the Board may certify less than fifteen (15) names if fifteen (15) names are not available. Five (5) additional candidates are considered for each additional vacancy over one. (ex: two (2) vacancies will certify twenty (20) candidates; three (3) vacancies will certify twenty-five (25) candidates, etc.)

When less than ten (10) names are certified to the appointing authority, appointment from that list shall not be mandatory.

B. The appointing authority, having notified the Board of the position to be filled, and having received such list may then appoint. Except as provided in 9.08 with respect to promotion within the Police and Fire Departments, the appointing authority shall fill such position by appointment of one (1) of the fifteen (15) persons certified to him. If more than one (1) position is to be filled, the Board may certify a group of names from the eligible list, and the appointing authority shall appoint in the following manner: Beginning at the top of the list, each time a selection is made, it must be from one (1) of the first fifteen (15) candidates on the list who is willing to accept consideration for the position.

C. If an eligible list becomes exhausted and until a new list can be created, or when no eligible list for such position exists, names may be certified from eligible lists most appropriate for the group or class in which the position to be filled is classified.

9.3 Removal from Eligible List

A person certified from an eligible list more than three (3) times to the same appointing authority for the same or similar positions may be omitted from future certification to such appointing authority, provided that certification for a temporary appointment shall not be counted as one (1) of such certifications.

9.4 Veterans Preference on Original Appointments

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

9.5 Probationary Periods

A. Except for the Division of Fire, all original and promotional appointments, including provisional appointments made pursuant to these rules, shall be for a probationary period of not less than six (6) months, but may be longer when established within each individual department with the approval of the Personnel Board. Original and provisional appointments for the Division of Fire shall be for a probationary period of not less than twelve (12) months.

B. No appointment or promotion shall be final until the appointee has satisfactorily served his probationary period.

C. Service as a provisional employee in the same or similar class shall be included in the probationary period.

D. At the end of the probationary period, the appointing authority shall transmit to the Personnel Board, or the Secretary of the Personnel Board, indication of the appointee's successful completion of the probationary period.

9.6 Removal or Reduction During Probation

If the service of a probationary employee is unsatisfactory, he may be removed or returned to his prior position without right of appeal at any time during the probationary period. In the case of the removal of a probationary appointee, the appointing authority shall immediately notify the Board when the appointment is to be terminated. Such notification shall be in writing and state the reasons therefore. A failure to notify the Board or state the reasons for the decision shall not confer any tenure rights on the employee.

9.7 Provisional Service

Any employee in the classified service of the City of Monroe, who is appointed provisionally to fill a vacancy and who remains in provisional status in the same classification series for a period of two (2) years of continuous service, during which period no competitive examination is held, shall become a permanent appointee in the classified service at the conclusion of such two (2) year period.

9.8 Promotional Appointments: Police and Fire

In the case of a promotional appointment to be made in the Division of Police or Fire, the Board shall certify to the appointing authority the names of the candidates according to the applicable collective bargaining agreement procedures in place. Upon such certification, the appointing authority shall appoint the person certified within thirty (30) days of certification; ten (10) days in the case of an appointment within the Division of Fire. If there is no eligible list for the rank in which the available vacancy occurred, the Board, within sixty (60) days of such vacancy occurring shall hold a competitive promotional examination. After such examination has been held in the Division of Fire, an eligible list shall be established within twenty (20) days of the final date of the revised rating key or answer inspection date.

9.9 Promotional Restrictions: Police and Fire

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

B. Whenever a vacancy occurs in the promoted ranks immediately above the rank of regular fireman, no person shall be eligible to take the promotional examination unless he has served at least twenty-four (24) months in the lower rank. When a vacancy occurs in a rank other than the promoted rank immediately above the rank of regular fireman, no person shall be eligible to take the promotional examination unless he has served twelve (12) months in the rank from which the promotion is to be made. Whenever a vacancy occurs in any promoted ranks in the police department, no person shall be promoted to a position in a higher rank who has not served at least twelve (12) months in the next lower rank.

C. If there are fewer than two (2) eligible people willing to take the promotional test, the time-in-rank requirement may be waived by the Personnel Board.

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

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

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

G. If, after exhausting all ranks, two (2) eligible test takers cannot be located, then

a provisional appointment can be made.

9.10 Temporary or Exceptional Appointments

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

1. Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the Board is unable to certify to the appointing authority, upon request by the latter, a list of persons eligible for appointment to such position after a competitive examination, the appointing authority may nominate a person to the Board for non-competitive examination. If such nominee is certified by the Board as qualified after such non-competitive examination, that person may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination. Such provisional appointment shall continue in force only until a regular appointment can be made from eligible lists prepared by the Board. Such eligible list shall be prepared within six (6) months, provided that an examination for the position must be held within said six (6) month period from the date of such provisional appointment.

2. In case of an emergency, an appointment may be made without regard to these rules for a period not exceeding thirty (30) days, but in no case shall successive appointments be made.

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

4. Where the services to be rendered by an appointee are for a temporary period, not to exceed six (6) months, and the need for such service is important and urgent, the appointing authority may select for such temporary service any person, including any person on the proper list of those eligible for permanent appointment. Successive temporary appointments to the same position shall not be made under this division. The acceptance or refusal by an eligible of a temporary appointment shall not affect the person's standing on the register for permanent employment; nor shall the period of temporary service be counted as a part of the probationary service in case of subsequent appointment to a permanent position. All such temporary appointments shall be promptly reported to the Personnel Board.

5. Interim or temporary appointments, made necessary by reason of sickness, disability, or other approved leave of absence of regular officers or employees shall continue only during such period of sickness, disability, or other approved leave of absence, subject to rules to be provided for by the Personnel Board.

Interim appointments shall be made only to fill a vacancy that results from an employee's temporary absence, but shall not be made to fill a vacancy that results because an employee receives an interim appointment.

Chapter Ten

Tenure, Reduction, Suspension, Removal, and Demotion

10.1 Tenure of Office

A. The tenure of every officer or employee in the classified service of the City of Monroe, shall be during good behavior and efficient service. Except in case of layoff or abolishment or as otherwise provided by these rules, no such officer or employee shall be reduced in pay or position, suspended for more than five (5) work days or fined in excess of five (5) days' pay, or removed, except for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of such sections of the Rules of the Board, or any other failure of good behavior, or any other acts of misfeasance, malfeasance, or nonfeasance in office, or any violation of the rules and regulations of the Monroe Police or Fire Division. The appointing authority may require an employee who is suspended to report to work to serve the suspension.

B. A finding of the Ohio Ethics Board, based upon a preponderance of the evidence that the facts alleged in a complaint under Section 102. 06 of the Revised Code constitute a violation of Chapter 102, Section 2921.42 or Section 2921.43 of the Revised Code may constitute grounds for dismissal.

C. A finding of the Ohio Ethics Commission, based upon a preponderance of the evidence that the facts alleged in a complaint under R.C. 102.06 constitute a violation of R.C. Chapter 102 (ethics), R.C. 2921.42 (unlawful interest in a public contract), or R.C. 2921.43 (soliciting or accepting improper compensation) may constitute grounds for dismissal.

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

E. Conviction of a felony is a separate basis for reducing in pay or position, suspending, or removing an employee even where the employee has been disciplined for the underlying conduct.

F. Any employee charged with or under indictment for a felony who is not disciplined or discharged by the Appointing Authority may be placed on a leave of absence without pay until resolution of the court proceedings. Any employee may use accrued but unused vacation, holiday, compensatory, and/or other paid time off during such leave. An employee found guilty of a felony shall be summarily discharged. If the charges are reduced to a misdemeanor, or the employee is found innocent of the charges, the employee may be subject to discipline, but shall be paid for all lost straight time hours and shall have any vacation, holiday, compensatory, or other paid time off restored to his or her credit.

10.2 Procedure in General

A. In any case of reduction, suspension of more than five (5) working days, fines in excess of five (5) days' pay, or removal, the appointing authority shall furnish the affected employee with a copy of the order of reduction, suspension, fine or removal. Such order shall state the reason(s) therefore and shall be filed with the Board. The procedures set forth in Chapter 11 shall apply.

Service on the employee shall be by hand delivery and/or certified mail. The Appointing Authority may also serve the order by leaving a copy at the employee's address of record with an adult residing therein, or by posting such notice on the main door at the employee's address of record. If the service by certified mail is returned with an endorsement indicating that the mailed item was refused or unclaimed, then the order may be sent via ordinary mail, evidenced by a certificate of mailing. Such certificate of mailing shall be deemed served on the fifth (5th) calendar day following the date on which the order is mailed.

B. Within ten (10) days following the date the employee is served with the order, the employee may file a written appeal with the Board, unless the employee was removed or reduced during the probationary period. (However, disciplinary action based upon conviction of a "felony" within the meaning of R. C. 124.34 may not be appealed to the Personnel Board.) Such appeal shall be in writing and shall set forth the reasons why the employee believes the disciplinary action should not have been taken. In the event such an appeal is filed, the Board shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, such appeal within thirty (30) days from the filing of the appeal with the Board. The Board or trial board may affirm, disaffirm, or modify the judgment of the appointing authority.

C. In cases of removal, or reduction in pay for disciplinary reasons, either the appointing authority or the officer or employee may appeal the decision of the Board to the Court of Common Pleas of the County in which the employee resides in accordance with the procedure provided by Section 119.12 of the Revised Code. Such appeal shall be taken within fifteen (15) days after the mailing of the notice of the finding of the Board.

10.3 Disciplinary Suspension

An employee may be suspended for a period of not to exceed five (5) working days for disciplinary purposes without a right of appeal to the Personnel Board.

10.4 Absence Without Leave

Absence from duty without leave for any period of time, or the failure to report for duty

after leave has expired, shall be considered "neglect of duty" and a cause for removal.

10.5 Bargaining Unit Employees

The procedures for discipline or removal of employees covered by a collective bargaining agreement are governed by those agreements, or are governed by these Rules where the agreement is silent.

10.6 Procedure for Removal, Fine, Suspension, or Reduction

A suspension of more than five (5) days, removal, fine of more than five (5) days, or demotion of an employee by the appointing authority shall not become effective until such appointing authority has first:

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

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

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

CHAPTER ELEVEN

HEARING PROCEDURE

11.1 Time of Hearing; Notifications

Upon receipt from an employee or officer in the classified service of the City of a timely appeal from an order of removal, reduction in pay or position, suspension for more than five (5) working days, or fine in excess of five (5) days' pay, the Board shall set a time and place to hear such appeal and shall notify the appointing authority, as well as the employee and his attorney, if known, of the time and place of the hearing. Such notice must be in writing and mailed to the last known post office address of each party no less than ten (10) calendar days prior to the hearing date; however, this time limit may be waived by the Board at the employee's request.

11.2 Amendments to Orders

Amendments to the orders of removal, reduction in pay or position, suspension for more than five (5) working days, or fine in excess of five (5) days' pay may be made by the appointing authority at any time, provided the employee and his attorney, if any, receive copies of the amended order prior to ten (10) calendar days before the time set for the hearing as provided herein provided.

11.3 Hearing Procedure

Hearings before the Board may be public except when the nature of the charge may be offensive to public morality and decency. In such cases, the Board may order the hearings closed to the general public. In the hearing of such appeals, the order of procedure shall be as follows:

1. The appointing authority taking action affecting the employee shall present his evidence in support of the charges and specifications.

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

3. The appointing authority may offer evidence in rebuttal. The Board may, in its discretion, hear final arguments.

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

11.4 Rules of Evidence; Representation by Counsel

The Rules of Evidence prevailing in civil actions in the Ohio courts of general jurisdiction are to be used as evidentiary guidelines in hearings before the Personnel Board. The Board may permit the introduction of evidence otherwise excludable under such rules where a foundation, establishing the reliability and credibility of the

evidence, its relevance and materiality, and its necessity, has been established. The appellee and appellant may be represented by counsel or other representative. The Personnel Board may be represented by independent legal counsel and the cost of such representation will be paid by the City.

11.5 Burden of Proof

The appointing authority shall prove, by a preponderance of the evidence, the factual allegations contained in the disciplinary order. Failure to prove each of the allegations contained in the order does not require disaffirmance or annulment of the appointing authority's order by the Board. The employee shall prove, by a preponderance of evidence, that an employer took an appealable action (e.g., that the employee was reduced, reclassified, etc.).

11.6 Discovery

The Board may, at its discretion, allow either party to conduct discovery upon notice to the Board.

11.7 Subpoenas

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

11.8 Witnesses

All witnesses must testify under oath or affirmation.

11.9 Motions

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

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

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

2. Procedural motions, not determinative of the final outcome of the appeal, may be acted upon any time after receipt by the Board without awaiting a response from the opposing party. The party adversely affected by such action of the Board may

move for appropriate relief.

11.10 Record of Hearings

The Board may record hearings either by the use of a stenographer, magnetic tape, or other recording technology.

11.11 Findings of Fact and Conclusions of Law

Following the conclusion of the hearing or the submission of final briefs, the Board shall issue a written report including the findings of fact and conclusions of law. A copy of such report shall be forwarded to the Appointing Authority, the subject employee, and any designated representative of either party.

11.12 Resignation before Final Action

The acceptance by the appointing authority of the resignation of a person discharged, before the final action by the Board, will be considered a withdrawal of the charges. Notice of such resignation shall be submitted immediately to the Board. The separation of the employee thus resigning shall be entered upon the records of the Board and the proceedings dismissed without judgment.

11.13 TrialBoard/Hearing Officer

The Board may appoint a trial board or hearing officer to hear an appeal as provided in Rule 10.02. When the Board exercises its discretion to do so, the following procedure shall apply before the Board takes final action on the appeal. Hearing officer shall have the same meaning as trial board for purposes of this section.

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

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

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

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

3. Objections to reports and recommendations should include a brief statement of each statement of the case and a concise statement of each

area of disagreement with supporting arguments and memoranda. All parties' objections or responses must be limited to evidence presented at the hearing. Objections and responses to objections containing arguments based on evidence not already in the record may be stricken.

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

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

D. Final orders shall be signed by the Chair or other member of the Board. The original order shall be journalized and a copy of the order placed in the case file. Agreement of not less than three (3) Board members shall be required to reject or modify any report and recommendation of the hearing officer. Info such agreement is reached, the report and recommendation of the hearing officer shall be deemed affirmed as the final order of the Board but shall not have any precedential value. Copies of final orders of the Board shall be sent by certified mail to the affected employee and by regular mail to the other parties and their representatives.

1. Copies of orders returned to the Board or unclaimed or refused shall be reissued by regular United States mail.
2. Copies of final orders returned to the Board as undeliverable shall be placed in the case file and the opposing party shall be notified.

CHAPTER TWELVE

LAYOFFS AND TRANSFERS

12.1 Layoffs or Reductions in General

Employees may be laid off as a result of a lack of funds, as a result of lack of work or as a result of the abolishment of positions. The appointing authority may abolish positions as a result of reorganization for the efficient operation of the City, for reasons of economy, or for lack of work. Whenever a reduction in the work force is necessary, the appointing authority shall determine the classification(s) in which the layoff(s) will occur, and the number of employees to be laid off within each classification.

Layoffs or reductions in departments governed by a collective bargaining agreement will be made in accordance with the applicable provisions of the collective bargaining agreement in effect at the time of such layoff or reduction. If the collective bargaining agreement is silent on a part, these rules shall apply.

12.2 Order of Layoff of Employees

For purposes of this chapter, the appointment categories within the classification for layoff are as follows: unclassified service, classified service.

Layoffs shall be based upon seniority within the City. The employee within the affected classification with the least seniority shall be laid off first. In cases where two (2) or more employees have identical seniority dates, the employee with the lowest rating on the most recent performance evaluation shall be laid off first.

Within each appointment category, employees shall be laid off in the following order:

1. Employees serving provisionally who have not completed their probationary period after appointment;

2. Employees serving provisionally who have completed their probationary period after appointment;

3. Certified employees who have not completed their probationary period after appointment; and

4. Certified employees who have completed their probationary period after appointment.

12.3 Verification ofSeniority

A. The appointing authority shall submit to the Commission the list of employee seniority dates with the request for verification. The list submitted for verification of seniority dates must identify those persons being considered for layoff and/or the positions being consideredfor abolishment.

If an appointing authority indicated a different date of original hire than the date indicated by the Commission, then the change must be supported by documentation which shall be submitted with the list.

B. The Commission shall verify the seniority dates of the employees on the submitted list.

C. Once an appointing authority has submitted the list of seniority dates and employees to the Board, the appointing authority may not move employees into or out of affected classifications by means of promotions, transfers, voluntary demotions, lateral transfers or re-classifications, or reassignments, except that implementation of the findings of a position audit commenced prior to the date of submission of the list for verification of seniority shall be implemented.

D. Personnel action forms and recall lists resulting from a layoff or displacement must be received by the Board at least seven (7) days prior to the effective date of a layoff or displacement.

12.4 Notification of Layoff or Displacement

A. Each employee to be laid off shall be given advance written notice by the appointing authority. Such written notice shall be hand-delivered to the employee at work or mailed by certified mail to the employee's last known address on file with the appointing authority. If hand-delivered, such notice shall be given at least fourteen (14) calendar days before the effective date of layoff or layoff due to displacement, and the day of hand delivery shall be the first day of the fourteen (14) day period. If mailed, such notice shall be mailed at least seventeen (17) calendar days before the effective date of the layoff or layoff due to displacement. The date the letter is mailed shall be 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 effective date of the layoff or displacement;
3. The employee's seniority date;
4. The right of the employee to appeal a layoff or displacement to the Personnel Board and that the appeal must be made within ten (10) days after the employee has received notification of layoff or displacement;
5. A statement advising the employee that he may have the right to displace another employee and that the employee must notify the appointing authority in writing of his desire to exercise his displacement rights within five (5) days

of date of notification;

6. The statement advising the employee of the right to reinstatement or reemployment;

7. A statement that, upon request by the employee, the appointing authority will make available a copy of this rule of the Monroe Personnel Board; and

8. A statement that the employee is responsible for maintaining a current addresswith his appointing authority.

12.5 Displacement Rights of Employees

Each employee laid off or employee whose position has been abolished, or displaced as a result of a layoff, shall have the right to displace another employee with the least amount of seniority in the manner provided in this rule. Displacement rights of an employee may only be exercised within the employee's department.

An employee who is to be laid off may exercise his displacement rights under the provisions of this chapter, or be laid off. Displacement occurs the date the employee is notified that another employee has exercised his right of displacement, and that the employee with less seniority is to be displaced. A displaced employee may exercise a right to displace another employee if such right to displace exists. If the displaced employee does not have the right to displace another employee, then the displaced employee shall be laid off.

Employees shall notify their appointing authority, in writing, of their intention to exercise their displacement rights within five (5) calendar days of their receipt of notice of layoff or displacement.

Within the order of displacement set forth in this rule a laid off employee exercising his displacement rights shall displace the employee with the least seniority. Employees shall only have the right to displace employees with less seniority in the order established in Section 12.06 of this chapter.

In no event shall a laid off provisional employee have the right to displace a certified employee.

No employee shall displace an employee for whose position or classification there exists special minimum qualifications unless the employee desiring to displace another employee possesses the requisite minimum qualifications or bonafide occupational qualifications for the position or the classification. The special qualifications must be established by a position description for the position, by classification specification minimum qualification statement, or by bonafide occupational qualifications for the position(s) or classification. The appointing authority shall be responsible for establishing the necessity of special qualifications for a position.

An employee exercising his displacement rights to a position or an employee displaced as a result of a layoff or abolishment shall be paid according to the pay range assigned to the classification into which the employee displaced or was displaced.

12.6 Order of Displacement

Laid off employees and employees whose positions are abolished, and employees displaced as a result of a layoff, who have the right to displace, shall exercise their displacement rights in the following order:

A. An employee who has the right to displace whose position is abolished and who is to be laid off, may displace within his classification. If the employee exercises his right to displace within his classification, he shall displace the employee with the least seniority in that classification.

B. An employee who is to be laid off or displaced as a result of a layoff may displace an employee with the least seniority in the next lower and then successively lower classifications in the classification series. This process shall continue if necessary until the employee with the least seniority in the lowest classification of the classification series has been reached and, if necessary, laid off.

12.7 Reinstatement Rights

A. The appointing authority who has laid off employees shall prepare recall lists of the names of the employees laid off. The recall list shall be compiled by the classifications in which the employees were laid off. The names of all laid off and displaced certified employees shall appear on one (1) list, and the names of all laid off and displaced provisional employees shall appear on a second list. The names shall be listed in descending seniority order in each appointment category. These lists shall be in reverse order of the order of layoff as established in this chapter. The recall list shall contain the employee's name, type of appointment, and date of commencement of continuous service. In cases of identical seniority dates, the order of recall shall be the reverse order of the layoff. These recall lists shall be administered bythe Board.

B. An employee's name shall remain on the appropriate list for a period of one

(1) year from the date of the job abolishment, layoff, or date of displacement from his originalclassification.

The administration of the recall lists for reinstatement shall comply with the following requirements;

1. An offer to fill a vacancy that occurs in a classification series must be accepted in writing or declined by the first person on the certified recall list for that classification series for positions in classifications with pay ranges equivalent to or lower than the classification from which the employee was laid off or displaced before the next person on the recall list may be offered a vacancy. An offer to fill a vacancy shall be deemed to be declined if not accepted in writing within five (5) working days.

2. After the certified recall lists for each appointing authority and any eligible lists for that classification have been exhausted, the appointing

authority provisional recall list shall be used for purposes of reinstatement as follows:

a. Vacancies occurring in the classification series for which a recall list exists, must be accepted in writing or declined by the first person on the provisional layoff list for that classification series for positions in classifications with pay ranges equivalent to or lower than the classification from which the employee was laid off or displaced from before the next person on the list may be considered for reinstatement. An offer to fill a vacancy shall be deemed to be declined if not accepted in writing within five (5) working days.

A laid off or displaced employee who chooses not to exercise his option to displace shall only be entitled to reinstatement to the classification from which the employee was laid off or displaced.

Where an appointing authority has an employee on a recall list, the appointing authority shall not hire, promote, or transfer into the classification or the classification series subject to the recall list except as provided in this rule.

Any employee reinstated under this rule shall not serve a' new probationary period when reinstated; except any employee laid off or displaced while serving an original or promotional probationary period shall begin a new probationary period upon reinstatement.

12.8 Appeal of Layoff, Abolishment, or Displacement

An employee may appeal a layoff, abolishment, or a displacement which is a result of a layoff, to the Monroe Personnel Board. Such appeal must be filed or postmarked no later than ten (10) days after the employee receives notice of the layoff, abolishment, or the date the employee is displaced. An employee shall be considered displaced the date the employee is notified that another employee has exercised his right to displace an employee from his position. An appeal shall be made in accordance with the rules promulgated by the Monroe Personnel Board.

12.9 Temporary Transfers

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

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

C. If the Personnel Board approves a second temporary transfer within any six (6) month period, and the employee objects to the transfer because the temporary transfer is not necessary for the efficient operation of the office, the employee may appeal the temporary transfer to the Personnel Board. If the Personnel Board finds that the appeal

of the employee is well taken, the Board shall not approve the temporary transfer. If the Personnel Board finds that the appeal is not well taken, the Board shall approve the temporary transfer.

12.10 Permanent Transfers

A. Subject to the other provisions of these rules, the appointing authority may, with the approval of the Personnel Board, permanently transfer an employee in the classified service from his or her position to a similar position in another office, department, or division of the same appointing authority.

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

C. The appointing authority requesting the permanent transfer shall notify the employee and the Personnel Board in writing of the request to transfer.

D. If the Personnel Board determines that the transfer is not necessary for the efficient operation of the office, department, or division, the Board shall not approve the transfer and shall notify the appointing authority and the employee in writing that the transfer is not approved. If the Personnel Board determines that the transfer is necessary for the efficient operation of the office, department, or division, the Personnel Board shall notify the appointing authority and the employee involved in writing that the transfer is approved.

CHAPTER THIRTEEN

REINSTATEMENTS AND LEAVES OF ABSENCE

13.1 Leaves of Absence

The appointing authority may, with the consent of the Board, grant a leave of absence to an employee in the classified service for a period not to exceed six (6) months. Upon the expiration of such leave of absence, such officer or employee shall be reinstated. However, if the officer or employee is a provisional appointee, the leave of absence is subject to the establishment of an eligible list and terminates automatically in case an eligible list for said position is established at any time during the period of leave of absence. All such leaves of absence granted by the appointing authority shall be referred to the Board promptly for approval, in order that the data of such absentees may be protected.

13.2 Reinstatements in General

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

13.3 Reinstatement/Disability Retirement

A. Any person holding an office or position under the classified service who is separated therefrom due to injury or physical disability and has been on an approved disability retirement under the Public Employee Retirement System (PERS) or the Ohio Police and Fire Pension Fund (OPF) for less than five (5) years, and such retirement board certifies to the employer that the employee is physically and mentally capable of performing the duties of the same or similar position from which the employee was separated, the employee shall be restored to the same or similar position and salary as was held by the employee at the time of separation.

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

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

a. Filing a written application with the Chief of the Division or City Manager for reinstatement to the office or position held at the time of separation; and

b. Passing a physical examination conducted by a:· licensed physician designated by the Public Employees Retirement System or by the Ohio Police and Fire Pension Fund which certifies the person is able to perform the essential functions of the office or position within two (2) weeks after making application for reinstatement;

c. Such application for reinstatement must be filed within five (5) years from the date of separation and the applicant shall not have attained service eligibility retirement.

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

CHAPTER FOURTEEN

PROHIBITIONS

14.1 Political Activity Prohibited

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

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

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

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

B. This provision shall not prohibit officers or employees of the City of Monroe from making personal political contributions or from serving as a precinct election official.

14.2 Fraud in Examinations Prohibited

Fraud in examinations is prohibited. No person or officer shall:

A. Willfully or corruptly by himself or in cooperation with one (1) or more persons defeat, deceive, or obstruct any person in respe9t to their right of examination, appointment, or employment arising under these rules; or

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

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

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

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

F. Furnish any false information about himself or any other person, in connection with

any examination, registration, or appointment or application or request to be examined, registered, or appointed; or

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

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

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

J. When taking an examination, to use any sources of information not already provided and distributed or otherwise allowed by the exam administrators; or

K. Cause or participate in the written, audio, video, and/or photographic recording of any aspect of any examination process.

The participation in any manner in any of the offenses listed above shall be deemed cause to have his examination papers taken up and filed with a zero (O) marking, and the applicant will no longer be considered for employment or promotion.

14.3 Payment for Appointment or Promotion Prohibited

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

14.4 Abuse of Official Power for Political Reasons Prohibited

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

14.5 Abuse of Political Influence

No person who holds any public office, or who has been nominated for, or who seeks nomination or appointment to any public office, shall corruptly use or promise to use, either directly or indirectly, any official authority or influence in order to secure or to aid any person in securing for him/herself, or for another any office or employment in the classified service of the City of Monroe, Ohio or any promotion or increase in salary therein, as a reward for political influence or service. No person, by means of threats or coercion, shall induce or seek to induce anyone in the said classified service to resign his position, or to waive his right to certification, appointment or promotion.

14.6 False Statements

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

14.7 Violations

After a Rule hereunder has been established and published by the Personnel Board, no person shall make an appointment to office or select a person for employment contrary to such Rule, or willfully refuse or neglect to comply with or to conform to the sections of these rules. If any person who is convicted of a violation described herein holds any public office or place of public employment, such position shall be rendered vacant by reason of said conviction.

14.8 Prosecutions

Prosecutions for violations under these rules in relation to the municipal service of the City of Monroe, Ohio, or by any officer or employee of the same, shall be instituted by the Personnel Board of the City of Monroe, Ohio, through the legal department of the City of Monroe, Ohio, or by such Personnel Board through special counsel.