

**THE CITY OF AVON, OHIO**  
**CIVIL SERVICE COMMISSION**  
**RULES AND REGULATIONS**

**(Adopted April 7, 2008)**  
**(Rule IV Amended 12/15/2008)**  
**(Rule VII Amended 2/14/2011)**  
**(Rules IV and VII Sect. 5 Amended 1/13/2014)**  
**(Rule VII Section 7 Amended 2/3/2014)**  
**(Rule IV Sections 4 & 9 Amended 7/6/15)**  
**(Rules II and VI Amended 8/3/15)\***

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## **PREAMBLE**

The following set of rules and regulations is hereby adopted in accordance with the authority conferred upon the Municipal Civil Service Commission of the City of Avon by the Constitution of the State of Ohio and the Charter of the City of Avon.

## **RULE I      ADMINISTRATION**

**Section 1. Composition and Duties.** The Commission shall be composed of three (3) members who shall be appointed and serve in the manner provided for in Section 124.40 of the Revised Code and Article VI of the Charter of the City of Avon.

It shall be the duty of each member of the Commission to attend all meetings of the Commission, and to devote such time as is necessary to the management of the business and affairs of the Commission.

**Section 2. Powers.** The Commission shall administer and enforce the Civil Service laws of the State of Ohio, when not in conflict with the rules herein prescribed, and the rules and regulations herein prescribed relative to the civil service in the City of Avon.

**Section 3. Meetings.** The Commission shall meet in session on such dates as shall be fixed by the Commission, or as often as the duties of the office shall demand. However, the Commission shall hold a minimum of twelve (12) meetings per year with one (1) each calendar quarter. The Chairman may, on his own initiative, and shall upon the request of the other two members of the Commission, call a special meeting of the Commission not earlier than two days nor later than ten days from the date of issuance of the notice of such meeting. It shall be the duty of the Chairman to use every reasonable effort to give the other members of the Commission notice thereof at the earliest possible time.

Two (2) members of the Commission shall constitute a quorum at any meeting of the Commission, and the affirmative vote of at least two members of the Commission shall be required to adopt any motion or resolution.

**Section 4. Recording Secretary.** A suitable person shall be appointed by the Commission to act as the Commission's Clerk. The duties of the Recording Secretary shall be to take minutes of all meetings, prepare correspondence, and provide such clerical and stenographic work as the Commission may request.

**Section 5. Records.** All public records of the Commission shall be kept in the office of the Commission and will be made available for public inspection during the prescribed hours that such office is open. The Commission shall keep under its own lock for safekeeping records pertaining to all examinations and other confidential material.

**Section 6. Order of Business.** The order of business for meetings of the Commission shall be:

- A. Roll Call
- B. Disposition of unapproved minutes

- C. Reports
- D. Unfinished business
- E. New business
- F. Adjournment

## **RULE II      DEFINITIONS**

**Section 1.** The term “Commission” refers to the Municipal Civil Service Commission of the City of Avon.

**Section 2.** The term “Civil Service” refers to and includes all offices and positions of trust or employment in the service of the City of Avon.

**Section 3.** The term “Unclassified Service” shall comprise those positions set forth in Article VI, Section 3 of the Charter of the City of Avon, or any other position specifically placed in the unclassified civil service in accordance with Section 124.11 of the Revised Code, when such is not in conflict with these rules.

**Section 4.** The term “Classified Service” shall comprise all persons in the employ of the City of Avon who are not specifically included in the Unclassified Service.

The Classified Service shall be divided into the “Competitive Class” and the “Unskilled Labor Class.”

- A. The Competitive Class shall include all positions and employments now existing or hereafter created in the City of Avon for which it is practicable to determine the merit and fitness of applicants by competitive examinations for either original appointment or promotion.
- B. The Unskilled Class shall include unskilled laborers and entry level clerical positions for which the educational and experience requirements are minimal or non-existent.

(Amended August 3, 2015)

**Section 5.** The term “Appointing Authority” refers to the Mayor, except as may be otherwise provided by the Charter of the City of Avon.

**Section 6.** The term “Class” or “Classification” shall be deemed to refer to any two or more positions which are sufficiently similar in respect to duties, responsibilities, and qualification requirements to be designated by the same descriptive title and equitably compensated within the same salary scale.

**Section 7.** The term “Probationary Period” shall mean the one (1) year term for which a person is given either an original or promotional appointment.

**Section 8.** The term “Permanent Position” signifies any position in the Civil Service to which a person has been appointed and has served the requisite probationary period.

**Section 9.** The term “Provisional Position” signifies an appointment made without competition in the classified service because:

- A. A vacancy exists but there is no eligible list therefor; or,
- B. A vacancy exists in a position requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character, and competition is impractical.

**Section 10.** The term “Eligibility List” signifies a list of names of persons who have been found qualified through suitable examination for employment in positions of a specified class, arranged in order of merit.

**Section 11.** The terms “Promotion” or “Advancement” signify movement made in accordance with the Civil Service Commission and the Rules of the Commission from a lower class to a higher class, involving an increase in responsibilities, a change in classification title, and the application of a higher salary rate.

**Section 12.** The masculine pronoun “he” and its derivatives, whenever employed, shall include the feminine pronoun and its derivatives.

**RULE III      OFFICIAL RECORDS**

**Section 1.** Under the direction of the Chairman, the Recording Secretary of the Commission shall keep a minute record of such official actions of the Commission as are required under the law or under the Rules of the Commission, including the following:

- A. All classified employees including probationary, provisional, and exceptional appointments and reinstatements;
- B. Appeals from dismissal, demotion, and suspension;
- C. The list of eligible candidates for classified appointments together with a record of replacements and removal thereto;
- D. Changes in the grade classifications of individual employees;
- E. Examination schedules;
- F. Annual reports;
- G. Minutes of Meetings.

**Section 2.** On behalf of the Commission, the Recording Secretary shall maintain an official roster showing the full name, title, and rate of pay of all employees in the classified service.

**Section 3.** The Recording Secretary of the Commission shall oversee the maintenance of the official classification, of efficiency records, files of examination papers, correspondence, and other data. The examination papers and applications shall be preserved for two (2) years after the expiration of the eligibility list (in accordance with the City of Avon's records retention schedule).

**Section 4.** Reclassification or creation of new positions as established by Council shall be made a matter of official record by the Commission.

## **RULE IV    EXAMINATIONS**

### **Section 1. Notice of Examination.**

- A. Competitive Entrance and Lateral Entry Examinations. Notice of competitive entrance and/or lateral entry examinations shall be given through advertisement in a newspaper of general circulation within the region. Such notices shall be posted conspicuously on City Hall bulletin boards and in such other places as may be advisable, for a period of not less than two (2) weeks or more than four (4) weeks prior to such examination.
- B. Promotional Examination. Notice of competitive promotional examinations to be held shall be given by posting of bulletins in conspicuous places in the departments or by direct written communications to those employees who may be eligible for such promotion. Such notice shall be given, along with a listing of any reference materials required to be studied for said examination, not less than forty-five (45) days prior to the examination. Employees intending to take such examination are required to communicate such fact, in writing, to the Commission no later than thirty (30) days prior to the examination. Failure to reply shall be considered a negative reply.

**Section 2. Examination Fee.** A fee may be assessed for competitive entrance and/or lateral entry examinations. The fee shall be computed on a reasonable cost basis to compensate for the costs of advertisement, examination materials, special examiners, and other related and incidental expenses incurred. All fees collected under the provision of this rule shall be payable to the City of Avon for deposit into the City Treasury.

**Section 3. Identity of Examinees Concealed.** The identity of all persons taking competitive assembled examinations shall be concealed by the use of an identification number, which shall be used on all examination papers. This number shall be used from the beginning of the examination until the papers have been rated. Any papers bearing the name of the applicant or any other identification mark shall be rejected and the candidate so notified.

### **Section 4. Scope: Subjects and Weights Thereof.**

- A. Competitive Entrance, Lateral Entry, and Promotional Examinations. Competitive entrance, lateral entry, and promotional examinations shall be practical in character and shall relate directly to those matters which will fairly test the relative capacity of the person examined to discharge the particular duties of the position for which appointment

or promotion is sought and shall consist of one (1) or more interviews, assessments, work simulations, examinations of knowledge, skills, and abilities, and any other acceptable testing methods as determined by the Commission or its designee. The Commission shall prescribe the subjects of each examination and the relative weights to be attached thereto, provided that any such determination must have been adopted prior to the date of such examination. When possible, this information will be included in the notice of examination.

- B. Police Department Promotional Examination. Promotions to positions above the rank of patrolman in the Police Department shall be in accordance with the provisions of Section 124.44 of the Revised Code, as provided for in Rule VII herein, except that inspection of written examination papers shall comply with Section (9) below.
- C. Fire Department Promotional Examination. Promotions to positions above the rank of regular fireman in the Fire Department shall be in accordance with the provisions of Section 124.45 of the Revised Code and as provided for in Rule VII herein, except that inspection of written examination papers shall comply with Section (9) below.
- B. Seniority Rating and Credit. Applicants taking promotional examinations shall receive credit for seniority as provided by Section 124.31, 124.44, and 124.45 of the Revised Code.

(Amended 7/6/15)

**Section 5. Admittance to Examination.** No applicant shall be admitted to any assembled examination more than fifteen (15) minutes after the advertised time for the beginning of such examination.

**Section 6. Time Limitations.** No applicant in any examination shall be given a longer time on any subject than prescribed by the Commission when examination questions are approved.

**Section 7. Fraud in Examination.** Fraud in examinations, as defined by Section 124.58 of the Revised Code, are prohibited.

**Section 8. Visitors at Examinations.** No visitor shall be admitted to the examination room during any examination except by special permission of the Chairman.

**Section 9. Inspection of Examination Papers on Competitive Entrance Examinations and Promotional Examinations.**

- A. Prior to Grading. No participants in any written competitive entrance or promotional examination may inspect the examination questions, prior to grading. The Commission, however, shall have the authority to review any irregularity in any exam question(s) brought forth by the Administration prior to grading to determine whether it is reasonably related to ascertaining a candidate's merit and fitness for employment.
- B. Subsequent to Grading. Each participant shall have the right to examine only those questions on a written competitive entrance examination or promotional exams which were graded as incorrect together with the rating key within ten (10) days of the day on

which the notice of his or her grade is mailed (Saturdays, Sundays, and legal holidays excluded) and to compare his or her answers to the answer key to insure the accuracy of the scoring process. Any protest as to the grading must be filed within the ten (10) day period. The Commission shall then consider any protests and make such changes as are warranted. The Commission shall then establish the eligibility list and no grades given in any examination shall be changed after the posting of the eligibility list.

(Amended 7/6/15)

**Section 10. Examination Postponed.** Examinations, unless postponed, must be held upon dates fixed by the Commission. Examinations may be postponed by order of the Commission, which shall designate the reasons therefor.

**Section 11. Rating of Competitors.**

- A. **Minimum Passing Score.** The Civil Service Commission shall attempt, with the assistance of the compiler(s) of any civil service examination, to determine the minimum passing score or standard on such examination. When available in advance, this information will be included in all examination notices. A participant in any written competitive entrance examination process must first attain the minimum passing score before he will be eligible to receive any extra credits.
  
- B. **Credit for Military Service.** In the event that the applicant for an original appointment to a position in the classified service receives a passing score on his written competitive entrance examination, he shall be entitled to an additional five (5) points if he was in the service and on continuous active military duty for a minimum of eighteen (18) months and was honorably discharged. A copy of the applicant's discharge form (DD214) must be submitted at the time of application so that the applicant's time in service may be verified.
  
- C. **Service Credit.** Points will be added to a passing score on a written competitive entrance examination for full-time service as follows:
  - i. With written proof of three years service as a licensed firefighter/paramedic with another municipal service 5 points
  
- D. **Additional Credits for Police.** In the event that an applicant for an original appointment to the position of Police Officer receives a passing score on his written competitive entrance examination, he shall be extended the following additional credits for education:
  - i. Bachelor's Degree in Criminal Justice 10 points
  
  - ii. Associate Degree in Police Science or Bachelor's Degree in any discipline other than Criminal Justice 5 points  
(a copy of the diploma must be attached to the application when it is filed)

- E. Additional Credit for Firefighter/Paramedic: In the event that an application for an original appointment to the position of Firefighter/Paramedic receives a passing score on his written competitive entrance examination, he shall be extended the following additional credits:
- i. Education credit – Associates Degree in Fire Science (a copy of the diploma must be attached to the application when it is filed) 10 points
  - ii. Additional service credit – Part-time firefighter/paramedic with the Avon Fire Department for at least one (1) year 5 points
- F. No more than twenty (20) points shall be added to an applicant’s score on a written competitive entrance examination for original appointments in the Police and/or Fire Department.
- G. Credit for Municipal Employment. In the event that an applicant for an original appointment to a position in the classified service receives a passing score on his examination and such applicant has been continuously employed by the City of Avon for a period of at least one (1) year prior to the date of application, he shall be entitled to an additional credit of five (5) points.
- H. No additional credits shall be granted for promotional or lateral entry examinations.

**Section 12. Provisional Appointees.** Any employee in the classified service who is appointed to a position in accordance with Section 124.30 of the Ohio Revised Code, and demonstrates merit and fitness for the position by successfully completing the probationary period, or any extension thereof as set forth in the applicable Avon codified ordinances, shall become a permanent classified employee at the conclusion of such period.

**RULE V      ELIGIBILITY LISTS**

**Section 1. Posting of Lists.** From the returns of each examination, the Commission shall prepare and keep open to the public inspection an eligibility list of the persons whose grade in the examination for the class is not less than the minimum passing score or standard and who are otherwise eligible. Such persons shall take rank upon the eligibility list in the order of their relative grades. In the event of a tie in grading, those eligibles receiving the same score or standard shall be ranked in order of date and time of filing of application, except that applicants eligible for veteran’s preference under Rule IV, Section 11 (b), shall receive priority in rank on the eligibility list over non-veterans on the list with a rating equal to that of the veteran. Ties among veterans shall be decided by priority of the filing of the application. If two (2) or more applicants receive the same mark on a promotional examination, seniority shall determine the order in which their names are placed on the eligibility list. Whenever it becomes necessary to hold a subsequent examination in order to obtain additional eligibles, the Commission may consolidate existing lists for the same class by rearranging names therein according to their grades, except that competitive entrance and lateral entry lists will not be combined. All 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. When a promotional and an open-competitive list are combined, the promotional list shall be placed ahead of the open-competitive list.

**Section 2. Duration of Lists.** The term of eligibility of each list and of the names appearing thereon shall be fixed by the Commission at not less than one (1) year, nor more than two (2) years. Any list that has been in effect for more than one year may be abolished at any time as required in the public interest.

**Section 3. Transfer to Lower Class.** The name of any eligible may, at any time, upon his written request, be transferred to the eligibility list for a lower class requiring qualifications of the same general character. He shall be ranked thereon according to his original grade.

**Section 4. Removal from List.** The name of any person appearing on an eligibility list who fails to respond to a written notice from the Commission, who declined an appointment without reasons satisfactory to the Commission, or who cannot be located by the postal authorities, shall be removed from the eligibility list. His name may be reinstated on the eligibility list only in case a thoroughly satisfactory explanation of the circumstances is made to the Commission. In case an eligible's name appears on more than one list, appointment to a position in one class shall cause his name to be removed from other eligibility lists for classes in which the salary is equal or lower.

**Section 5. Disqualification of Eligibles.** If at any time after the creation of an eligibility list the Commission has reason to believe that any person whose name appears on any list is disqualified for appointment because of incapacity developed subsequent to his examination, because of false statements made in his application, a bad work history or poor references or for other similar reason, such person shall be notified and given an opportunity to be heard. If such person shall fail to appear for hearing, or upon his being heard fail to satisfy the Commission, his name shall be removed from such eligibility list.

**Section 6. Change of Address.** Each person on an eligibility list shall file with the Commission written notice of any change of address, and failure to do so may cause his name to be removed from the list.

**Section 7. Revocation of List.** An eligibility list may be revoked and re-examination ordered only when, in the judgment of the Commission, such action is deemed advisable on account of errors, fraud, or obviously inappropriate standards prescribed in connection with any examination. All competitors in the first examination shall, without further fee, be given an opportunity to compete and a new eligibility list shall be established. No eligibility list shall be altered or revoked except upon written notice to all persons whose standing may be affected and upon an entry of the reasons for such alteration or revocation in the minutes of the Commission.

## **RULE VI      ELIGIBILITY LISTS FOR THE UNSKILLED CLASS**

**Section 1. Defined.** The unskilled class shall include any classification for which there are minimal or no experience or educational requirements and which are designated by the Commission and filed in the Commission's records (e.g. Laborer; Parks Maintenance Worker,

Clerk/Secretary 1; Utilities Billing Clerk 1, etc.). The unskilled class shall consist of two components, a labor class and an entry level clerical class.

**Section 2. Appointments.** Appointments to positions in an unskilled class shall be from lists of applicants registered by the Commission. The appointing authority shall request a list for the labor class or an entry level clerical class as applicable. The complete list shall be provided. These lists shall be established by the Commission in accordance with the registration process provided in Section 3 herein.

**Section 3. Register.** For purposes of this rule, “register” shall be defined as the process by which all applicants deemed acceptable as meeting the minimum qualifications for a job classification in the unskilled labor class, and/or deemed acceptable as determined by the Commission.

The Commission shall require applicants for registration in an unskilled class to furnish such evidence or take such tests (examination) as the Civil Service Commission considers proper with respect to residence, physical and mental ability to perform the essential functions of the position applied for, with or without reasonable accommodation, honesty, industry, capacity, and experience in the work or employment for which application is made.

Applicants deemed acceptable shall be placed on an eligibility list, ranked chronologically by the date and time the application was received. Any application older than two (2) years will be removed. The list will be accepted by the Commission quarterly.  
(Amended 8/3/15)

**RULE VII APPOINTMENTS IN THE CLASSIFIED SERVICE**

**Section 1. Appointments.** Appointments to all positions in the classified service that are not filled by promotion, transfer, or reduction, as provided by the Civil Service Laws and Rules of the Commission, shall be made only from those persons whose names are certified to the appointing authority in accordance with the Civil Service Laws and Rules of the Commission.

**Section 2. Names to be Certified.** The appointing authority of the department in which a position in the classified service is to be filled shall notify the Commission of the fact, and the Commission shall, except as provided in Section 124.30 and 124.31 of the Ohio Revised Code, certify to the appointing authority thereof the names and addresses of the ten (10) candidates standing highest on the eligibility list(s) for the class or grade to which said position belongs. If the appointing authority notifies the Commission of more than one position, then the Commission shall certify the following number of names and the number of positions to be filled:

- |                              |                                   |
|------------------------------|-----------------------------------|
| For one position:            | Ten (10) certified applicants     |
| For two to four positions:   | Fifteen (15) certified applicants |
| For five to eight positions: | Twenty (20) certified applicants  |

In the event that an eligibility list becomes exhausted, through inadvertence or otherwise, and until a new list can be created, or when no eligibility list for such position exists, names may be

certified from eligibility lists most appropriate for the group or class in which the position to be filled is classified.

**Section 3. Certification No More than Three Times.** A person certified from the eligibility list three times to the same appointing authority may be omitted from future certifications, provided that certification for a temporary appointment shall not be counted as one of such certifications.

**Section 4. One of Ten Certified to be Appointed.** Upon receipt from the Commission of such list of eligibles for such position, the appointing authority shall forthwith fill such position by appointment of one of the persons thus certified to him and shall forthwith report to the Commission the name of such appointee, the title and character of his office, the duties of same, the date of commencement of same, the salary or compensation thereof, and such other information as the Commission requires in order to keep its roster.

**Section 5. Probationary Period.** All original, provisional, and promotional appointments shall be for a probationary period of one year. No appointment or promotion shall be deemed final until the appointee has satisfactorily served his probationary period. If the service of the probationary employee is unsatisfactory, he may be removed or reduced at any time during his probationary period. Unless the probationary employee has been removed or reduced earlier, the appointing authority, at any time during the ten day period before the end of the probationary period, shall inform the Commission in writing of his decision to make the appointment final or to remove or reduce the appointee. If the appointing authority's decision is to remove or reduce the appointee, his communication to the Commission shall state his reason for such decision. In the event the probationary period is disrupted due to an extended absence from employment for such things as illness, injury, medical leave or military activation, the probationary period is deemed suspended as of the date the absence began and resumes on the day the employee returns to full, unrestricted duty.

**Section 6. Provisional Appointments.** Positions in the classified service may be filled without competition as follows:

- A. Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the Commission is unable to certify to the appointing authority, upon requisition by the latter, a list of persons eligible for such position after a competitive examination, the appointing authority may fill the position by noncompetitive examination; or,
- B. A vacancy exists in a position requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character, and competition is impractical.
- C. Provisional Appointee, Permanent Appointment. Any employee in the classified service of the City who is appointed provisionally to fill a vacancy and demonstrates merit and fitness for the position by successfully completing the probationary period, or any extension thereof as set forth in the applicable Avon codified ordinances, shall become a permanent appointee in the classified service at the conclusion of such period.

## **Section 7. Promotions.**

- A. Vacancies in positions in the classified service shall be filled insofar as is practical by promotions, provided that, in the judgment of the Commission and the appointing authority, it is in the best interests of the service to fill such particular vacancy by promotion.
- B. Promotions in the Police Department. Promotions in the Police Department shall be made in accordance with the provisions of Section 124.44 of the Ohio Revised Code, with the following exceptions:
  - i. Promotion to the rank of sergeant shall require time-in-grade service of thirty-six (36) months from date of original appointment as a full-time Police Officer with the City of Avon before being eligible for promotion. Qualifying time-in-grade service for promotion to all other ranks in the Police Department shall be twelve (12) months in the next lowest rank with the City of Avon Police Department.
  - ii. In all cases where vacancies are to be filled by promotion, the Commission shall certify to the appointing authority the names of the three (3) persons having the highest rating on the promotional eligible list. The appointing authority shall forthwith fill such position by appointment of one of the persons thus certified to him and shall forthwith report to the Commission the name of such appointee, the title and character of his office, the duties of same, the date of commencement of same, the salary or compensation thereof, and such other information as the Commission requires in order to keep its roster.
- C. Promotions in the Fire Department. Promotions in the Fire Department shall be made in accordance with the provisions of Section 124.45 of the Ohio Revised Code, with the following exceptions:
  - i. Promotion to the rank of lieutenant shall require time-in-grade service of thirty-six (36) months from date of original appointment as a full-time Firefighter with the City of Avon before being eligible for promotion. Qualifying time-in-grade service for promotion to all other ranks in the Fire Department shall be twelve (12) months in the lowest rank with the City of Avon Fire Department.
  - ii. In all cases where vacancies are to be filled by promotion, the Commission shall certify to the appointing authority the names of the three (3) persons having the highest rating on the promotional eligible list. The appointing authority shall forthwith fill such position by appointment of one of the persons this certified to him and shall forthwith report to the Commission the name of such appointee, the title and character of his office, the duties of same, the date of commencement of same, the salary or compensation thereof, and such other information as the Commission requires in order to keep its roster.
- D. In the event of a tie on a promotional examination in the Police or Fire Departments, the applicant with the most service with the City of Avon as a Police Officer or Firefighter,

as appropriate, will be placed higher on the eligibility list than the applicant(s) with the same score, but less service with the City as a Police Officer or Firefighter.

## **RULE VIII TRANSFERS, REINSTATEMENTS, LAYOFFS, LEAVES**

**Section 1. Transfers.** A person holding a position in the classified service may be transferred, with the consent of the Commission, to a similar position in another office, department, or institution having the same pay and similar duties. No transfer shall be made to a position in another class or to a position for which original entrance requires an examination involving essential tests or qualifications different from those required for original entrance to the position held by such person. No transfer shall be made to a position from which the transfer is requested.

**Section 2. Voluntary Reduction or Demotion.** Reduction or demotion shall be made only for one or more of the reasons given in Section 124.34 of the Ohio Revised Code, except that voluntary written agreement by an employee to a demotion or reduction shall be considered a satisfactory basis for such action in the absence of evidence to the contrary. The salary of an employee following demotion shall be fixed by the appointing authority at the equitable rate, not to exceed the rate of pay prior to the demotion.

### **Section 3. Layoff Procedure.**

- A. Whenever it becomes necessary in any office or department, other than the Police and Fire Departments, through a lack of work, lack of funds, or abolishment of positions to reduce the number of classified employees within a class, the appointing authority will follow the procedures contained in Sections 124.321 – 124.327 of the Ohio Revised Code.
- B. Layoff Procedure in Police and Fire Departments. Whenever it becomes necessary in the Police and Fire Departments, through lack of work or funds, or for causes other than those outlined in Section 124.34 of the Ohio Revised Code to reduce the force in such department, such changes shall be made in accordance with Section 124.37 of the Ohio Revised Code.

**Section 4. Reinstatement.** Any permanently appointed employee who has resigned without delinquency may be reinstated, without requisition upon the Commission, by an appointing authority at any time within two (2) years from the date of such separation provided there are not former employees of the department who have been laid off and whose names appear on the eligible list for the class.

### **Section 5. Leave of Absence.**

- A. With the consent of the Commission, the appointing authority may grant an unpaid leave of absence to a permanent employee in the classified service for a period not to exceed one year. Upon expiration of such unpaid leave of absence, such officer or employee shall be reinstated to his former position, provided that the appointing authority has not

found it necessary to fill the position and upon written notification to the absent employee to this effect the latter has refused in writing to curtail his leave and return to work.

- B. **Military Leaves.** The applicable provisions of Chapter 5903 of the Ohio Revised Code shall govern all permanent employees of the City of Avon returning from the armed services of the United States and applying for reinstatement.

**Section 6. Absence without Leave.** Any employee in the classified service who absents himself from duty for three (3) or more successive duty days, without leave and without notice to his superior officer of the reasons for such absence, may be subject to removal for neglect of duty. This rule does not require an appointing authority to initiate removal action if he determines it unwarranted nor does it preclude removal action for a shorter period of absence if the absence is of sufficient seriousness. The determination as to what constitutes a serious situation shall be made by the appointing authority based upon evidence received from supervising subordinates or personal observations or knowledge.

## **RULE IX      REDUCTIONS, SUSPENSIONS, REMOVAL**

**Section 1. Tenure.** The tenure of every officer or employee in the classified service of the City shall be during good behavior and efficient service. No officer or employee shall be reduced in pay or position, suspended, or removed, or have the officer's or employee's longevity reduced or eliminated, except as provided in Section 124.32 of the Revised Code, and for incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the officer's or employee's appointing authority, violation of the Rules of the Commission, violation of Sections 124.01 to 124.99 of the Ohio Revised Code, or any other failure of good behavior, any other acts of misfeasance, malfeasance, nonfeasance of office, or for conviction of a felony. A finding by the appropriate ethics commission, based upon a preponderance of the evidence, that the facts alleged in a complaint under Section 102.06 of the Ohio Revised Code constitutes a violation of Chapter 102, Section 2921.42, or Section 2921.43 of the Ohio Revised Code may constitute grounds for dismissal. Failure to file a statement or falsely filing a statement required by Section 102.02 of the Ohio Revised Code may also constitute grounds for removal.

**Section 2. Order of Reduction, Suspension, or Removal.** In any case of a reduction, suspension of more than three working days, a fine in excess of three (3) working days, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall furnish such employee with a copy of the order of reduction, fine, suspension or removal, which order shall state the reasons therefor.

**Section 3. Appeal from Order of the Appointing Authority.** Within ten (10) days following the service of such order, the employee may file an appeal, in writing, with the Commission. Appeals of suspensions and fines of three (3) working days or less are not appealable to the Commission. In the event such an appeal is filed, the Commission shall forthwith notify the appointing authority and shall hear such appeal within thirty (30) days from and after its filing with the Commission. The Commission may affirm, disaffirm, or modify the judgment of the appointing authority. However, in an appeal of a removal order based upon a violation of a last chance agreement, the Commission may only determine if the employee violated the agreement

and thus affirm or disaffirm the judgment of the appointing authority. As used in this section, “last chance agreement” means an agreement signed by both an appointing authority and an officer or employee of the appointing authority that describes the type of behavior or circumstances that, if it occurs, will automatically lead to removal of the officer or employee without the right of appeal to the Commission.

**Section 4. Appeal from Decision of the Commission.** In cases of removal or reduction in pay for disciplinary reasons, either the appointing authority or the officer or employee may appeal from the decision of the Commission to the Court of Common Pleas of Lorain County in accordance with the procedure provided by Section 119.12 of the Ohio Revised Code.

**Section 5. Resignation Before Final Action.** The acceptance by an appointing authority of the resignation of a person discharged, before final action by the Commission, will be considered a withdrawal of the charges. Notice of such resignation shall be submitted immediately to the Commission. The separation of the employee thus resigning shall be entered upon the records of the Commission and the proceedings dismissed without judgment.

**Section 6. Conviction of Felony.**

- A. Conviction of a felony is a separate basis for reducing in pay or position, suspending, or removing an officer or employee, even if the officer or employee has already been reduced in pay or position, suspended, or removed for the same conduct that is the basis of the felony. An officer or employee may not appeal to the Commission any disciplinary action taken by the appointing authority as a result of the officer’s or employee’s conviction of a felony. If an officer or employee removed under this section is reinstated as a result of an appeal of the removal, any conviction of a felony during the pendency of the appeal is a basis for further disciplinary action under this section upon the officer’s or employee’s reinstatement. An officer or employee convicted of a felony immediately forfeits the person’s status as a classified employee in any public employment on or after the date of the conviction of the felony. If an officer or employee is removed under this section as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the officer or employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmation of the removal, unless the conviction for the felony is subsequently reversed or annulled.
- B. Definitions. As used in this section, “felony” means any of the following:
  - i. A felony that is an offense of violence as defined in Section 2901.01 of the Ohio Revised Code;
  - ii. A felony that is a felony drug abuse offense as defined in Section 2925.01 of the Ohio Revised Code;
  - iii. A felony under the laws of this or any other state or the United States that is a crime of moral turpitude;
  - iv. A felony involving dishonesty, fraud, or theft;

- v. A felony that is in violation of section 2921.05, 2921.32, or 2921.42 of the Ohio Revised Code.

**RULE X      POLITICAL ACTIVITY PROHIBITED**

**Section 1. Discrimination Prohibited.** Persons holding positions in the classified service shall not be discriminated against in any way because of their political or religious opinions or affiliations, or because of the exercise of their right to vote as they please.

**Section 2. Political Activity Prohibited.** Persons holding positions in the classified service are prohibited from engaging in political activity as defined in Section 124.57 of the Ohio Revised Code and Section 123:1-46-02 of the Ohio Administrative Code.

**RULE XI      AMENDMENTS TO RULES**

**Section 1.** It shall require the affirmative vote of at least two (2) members of the Commission to amend, repeal, or adopt any new rule. The Commission shall not amend, repeal, nor adopt any new rule at the same meeting at which it is proposed. No final action to amend, repeal, or supplement rules shall be taken in less than seven (7) days after its proposal at a scheduled regular or special meeting of the Commission. Amendments to the rules shall be furnished to each appointing authority upon its amendment, and to any resident upon request.