

AN ORDINANCE AMENDING ORDINANCE O-08-13 TO UPDATE THE CIVIL SERVICE LAWS IN THE CITY OF CORTLAND, COUNTY OF TRUMBULL, STATE OF OHIO

WHEREAS, Article XV, Section 10 of the Constitution of the State of Ohio requires that “appointments and promotions in the Civil Service of the state, counties and cities must be made according to merit and fitness...”; and

WHEREAS, Article XI, Section 11.01 of the Charter of the Municipality of Cortland, Ohio requires that “at such time as the Municipality shall become a City, the Council shall by ordinance establish a Civil Service Commission and Civil Service System”; and

WHEREAS, on September 21, 1981 the City of Cortland established a Civil Service Commission by the passage of Ordinance O-34-81; and

WHEREAS, on November 7, 2005 by passage of Ordinance O-71-05, the City of Cortland updated and amended its civil service rules previously found in Ordinance O-34-81; and

WHEREAS, on March 4, 2013 by passage of O-08-13, the City updated and amended its civil service rules previously found in O-71-05; and

WHEREAS, City Council has received recommendations to implement additional changes and update the Civil Service Commission laws based on recommendations from the Civil Service Commission.

NOW, THEREFORE:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CORTLAND, OHIO:

Section 1. That there is hereby established a Civil Service System for the Municipality of Cortland under terms and conditions hereinafter stipulated.

Section 2. THE CIVIL SERVICE COMMISSION

A. Creation of the Commission

The Mayor shall create a Civil Service Commission as follows:

B. Composition and Term

The Civil Service Commission consists of three electors of the Municipality not holding other public office. The Mayor shall appoint the members, with confirmation by a majority of Council, to serve without compensation. (ORC 124.40(A)).

The Mayor shall appoint:

- (1) One member for a term beginning with the effective date of this ordinance and ending January 1, 1984.
- (2) One member for a term beginning with the effective date of this ordinance and ending January 1, 1986.
- (3) One member for a term beginning with the effective date of this ordinance and ending January 1, 1988.

Then, the Mayor shall appoint each member for a term of six years. (ORC 124.20(A)). Appointment will be non-partisan.

The Mayor shall fill a vacancy for the unexpired term in the manner authorized for an original appointment.

C. Organization of the Commission

The Mayor shall establish the date, time, and place for a meeting following the effective date of this ordinance and thereafter every two years beginning January 1, 1984 for the purpose of organization of the Commission. At the meeting, the Commission shall organize under a Chairman and Vice-Chairman elected from among its members for a term of two years. The Commission shall appoint a Secretary who may or may not be a member of the Commission. The Commission shall adopt its own operating rules and regulations.

City Council shall appropriate funds necessary for the operation of this Commission. (ORC 124.40(A)).

D. Powers and Duties of the Commission

The Civil Service Commission shall:

- (1) Prescribe and enforce rules relating to the appointment and dismissal of classified personnel of the City. (ORC 124.40(A));
- (2) “Prepare, conduct, and grade, all competitive” and non-competitive examinations for classified positions. (ORC 124.04 (A-B));
- (3) Prepare lists of eligible candidates for classified positions ranked in order of merit and fitness. (ORC 124.04 (C));
- (4) Classify all positions and allocate new positions to appropriate classifications. (ORC 124.04 (E));
- (5) Keep and maintain records open to the public of all actions and decisions of the Commission granted under authority of this ordinance. (ORC 124.09(B));
- (6) Hear appeals from classified employees on decisions by the Mayor affecting employment, reduction in pay, suspension, discharge, layoff, assignment, reassignment, classification, or reclassification of positions;
- (7) Prescribe, amend, and enforce administrative rules for carrying out its functions, powers, and duties;
- (8) Keep records of all applications for examinations and examinations conducted which will be open to the public “except examinations, proficiency assessments, and recommendations of former employers.” The Mayor will have free access to all these records for investigative purposes. (ORC 124.09(B));
- (9) Make investigations as to enforcement of this ordinance including administering oaths and taking testimony. (ORC 124.09(F));
- (10) Make a yearly report to the Mayor by January 1 showing the Commission’s actions, rules in force, and any recommendations. (ORC 124.09 (H)).

The Civil Service Commission may:

- (11) Subpoena for investigations or hearings over which the Commission has authority. (ORC 124.09(G)).

Section 3. UNCLASSIFIED SERVICE

The following positions constitute the unclassified service and are not subject to any Civil Service provisions:

- (1) Persons serving in elected positions (ORC 124.11(A)(1));
- (2) Members of Boards and Commissions (ORC 124.11(A)(3)(a));

- (3) Department Heads appointed by the Mayor except the Police Chief and Fire Chief (ORC 124.11(A)(3)(c));
- (4) Employees of the legislative authority (Council) ORC 124.11(A)(5)(a));
- (5) Two secretaries, assistants, or clerks for each appointive office “except for civil service commission, that is authorized to appoint such clerical and administrative support employees” (ORC 124.11(A)(8));
- (6) Mayor’s Court or Municipal Court officials including bailiffs, constables, and stenographers (ORC 124.11(10));
- (7) Assistants to the Law Director (ORC 124.11(11));
- (8) Assistants of elective or principal executive officers authorized to act for and in place of their principals or holding a fiduciary relation to their principals (ORC 124.11(A)(28));
- (9) Temporary or part time employees (ORC 124.11(A)(29));

Section 4. THE CLASSIFIED SERVICE

The Classified Service includes all persons not specifically included in the Unclassified Service. “The Classified Service consists of two classes, which shall be designated as the competitive class and the unskilled labor class.” “The Competitive Class shall include all positions and employments... for which it is practicable to determine the merit and fitness of applicants by competitive examination.” The Unskilled Labor Class includes all positions and employment for which factors other than examination determine merit and fitness. (ORC 124.11(B)(1-2)).

The Mayor shall make appointments to or shall grant employment for all positions in the competitive class that are not filled by promotion, reinstatement, transfer, or reduction, as provided in this chapter, by appointment from those certified to the Mayor in accordance with this chapter. (ORC 124.11(B)(1)).

Section 5. ELIGIBILITY LISTS FOR INITIAL APPOINTMENT

The Civil Service Commission shall prepare and maintain eligibility lists from which the Mayor shall make appointments with confirmation by a majority of Council.

The Civil Service Commission shall maintain separate lists for the Competitive Class, the Unskilled Labor Class, Police, and full time paid Firefighters. No person may be transferred from one list to another but may be placed on more than one list by separate application and examination. (ORC 124.43)

Factors to be used in determining merit and fitness may include but need not be limited to written examination, oral examination, performance examination, physical examination, training, licenses or permits held, experience, and recommendations of previous employers. Factors that may not be considered are sex, race, political, or religious beliefs and no examination may contain questions related thereto. The Commission shall uniformly apply all factors used in preparing eligibility lists to all persons seeking placement on any list and shall give credit if the applicant possesses these objective criteria to a maximum credit of 20 percent:

All applicants

- Honorably discharged veterans shall receive an additional 20% of passing grade on any competitive examination and in case of a tie score; an honorably discharged veteran shall be placed ahead of the person with an equal score. (ORC 124.23 (C))

Fire applicants

- An applicant with Level II firefighting qualifications shall receive an additional 10% of passing grade on a competitive examination for the purpose of original appointment.
- An applicant with Ohio Paramedic qualifications shall receive an additional 10% of passing grade on a competitive examination for the purpose of original appointment.

Police applicants

- An applicant with a Bachelor’s Degree shall receive an additional 10% of passing grade on any competitive examination.
- An applicant with an Associate Degree shall receive an additional 5% of passing grade on any competitive examination.
- An applicant with 2080 hours documented law enforcement service shall receive an additional 10% of passing grade on any competitive examination.
- An applicant with a current Ohio Peace Officer Certification shall receive an additional 10% of passing grade on any competitive examination.

The eligibility lists have a term not less than one or more than two years. When there are only three names on the list, a new list may be prepared. Persons remaining on the previous list will be required to resubmit an application for proper placement on the new list.

Section 6 **APPOINTMENTS**

A. Original Appointments

When a vacancy in any service occurs, the Mayor shall notify the Chairman of the Commission who shall certify the ten (10) highest candidates on the appropriate list, any one of which the Mayor may appoint to the vacancy. Appointment from the list is not mandatory if there are fewer than ten (10) names submitted.

If there is no eligibility list for appointments in any service, the Mayor shall certify this fact to the Civil Service Commission, which must conduct an examination within sixty days, certify the list to the Mayor within twenty days of the final examination, and the Mayor shall appoint within ten days.

The Mayor may make emergency or temporary appointments without competitive examination “when there are urgent reasons for filling a vacancy” but the appointment may not continue for more than 90 days and “in no case will a successive appointment be made.” (ORC 124.30(A)(1)).

All appointments are probationary for 180 days, and the Mayor may dismiss appointees during that period or at the end of the probationary period. Dismissed appointees have the right of appeal in accordance with Section 8 of this ordinance. (ORC 124.27)

There is hereby established a maximum age of 40 (before or on the applicants date of appointment) for a person to apply to the City for an original appointment to the City’s Fire Department or to the City’s Police Department.

Applicants that have transferable full-time credit from a State of Ohio retirement system or from Ohio Police and Fire Pension Fund shall use this time to reduce their actual age to meet the (age 40) maximum age for original appointment provided the applicant passes a fit-for-duty medical evaluation. (i.e. Actual age of 50 minus 10 years of full-time credit on OP&F from another department equals 40 years of age for initial hire).

B. Promotional Appointments

Vacancies in positions in the classified service shall be filled insofar as practicable by promotions. All examinations for higher classification shall be competitive and may include written tests, oral tests, and/or assessment centers, and shall relate to those matters which test the ability of the person being examined to discharge the particular duties of the position sought. The Commission shall prescribe the subject areas of each examination and the relative weights assigned to each subject area prior to the date of the examination.

Vacancies described herein shall be filled by promotion from among persons holding positions in a rank lower than the position to be filled. No competitive promotional examination shall be held unless there are at least two persons eligible to compete. Whenever the commission determines that there are fewer than two persons holding positions in the rank next lower than the position to be filled, who are eligible and willing to compete, the commission shall allow the persons holding positions in the then next lower rank who are eligible, to compete with the persons holding positions in the rank lower than the position to be filled. The persons in the

lower rank must meet all seniority requirements for the rank that is next lower than the position to be filled.

Fire Department Promotions

Those persons who compete in a promotional examination in accordance with the rules of the Civil Service Commission shall have added to their passing grade:

Credit for Seniority – Credit for Seniority shall be given as follows: one point shall be added for each of the first four years of service, and six-tenths of a point shall be added for each year for the next ten years of service. In computing the credit for seniority, half of the credit specified in this paragraph shall be given for a half year of service. This provides for a maximum of 10 points added to an applicant’s passing score. Credit for seniority shall be based only on service in Cortland Fire Department and shall be added to score at time of examination.

Credit for Education:

- An application with a Master’s Degree shall receive an additional 15% of passing grade on any promotional competitive examination.
- An applicant with a Bachelor’s Degree shall receive an additional 10% of passing grade on any promotional competitive examination.
- An applicant with an Associate’s Degree shall receive an additional 5% of passing grade on any promotional competitive examination.
- Must be from a National or Regional Accredited institution; only highest level of education shall be given; only one shall apply and shall be added to score at time of examination.

Credit for Certifications: An applicant shall receive additional credit, as listed below, of a passing grade on a competitive promotional exam. (Shall be added to score at time of examination).

- National Fire Academy Executive Fire Officer Program - 5%
 - Ohio Executive Fire Officer (OEF) - 4%
 - Fire Officer 1,2,3 & 4 (1% each) - Max 4%
 - Certified Fire Inspector - 2%
 - EMS or Firefighter Instructor 2%
 - Basic Fire Investigator 1%
 - Current Blue Card Command Class - 1%
- (or equivalent hours of instruction w/additional simulation hours)

Maximum of 20% shall be added to an applicant’s passing grade for the combined seniority, education and certification provided the applicant produces proof of completion at time of examination. (Each point for seniority shall be considered 1% for this calculation).

When service is interrupted by service in the armed forces of the United States, seniority credit shall be granted in promotional examinations for the time so served. No additional credit for military service shall be allowed in promotional examinations. (ORC 124.45)

Section 7. TENURE, REPRIMAND, REDUCTION, SUSPENSION, REMOVAL

When an employee completes the probationary period, he will become a permanent employee of the municipality and may not be reduced in rank, suspended or dismissed except for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of rules of the Civil Service Commission, failure of good behavior, or any other acts of misfeasance, malfeasance, or nonfeasance. The Mayor may initiate any disciplinary action deemed appropriate, subject to the employee’s right of appeal in accordance with Section 8.

Section 8. DISCIPLINARY ACTION, APPEAL

The Mayor shall initiate all disciplinary action. The Mayor shall notify the employee in writing, delivered by certified mail with return receipt requested, of any reprimand, reduction in rank, suspension, or removal together with reasons for the action. The employee may appeal disciplinary action by filing with the Civil Service Commission within ten days of receipt of notice, a written request for a hearing on the disciplinary action.

The Civil Service Commission shall set a date for a hearing within thirty days from receipt of request. The Civil Service Commission shall conduct the public hearing unless the employee requests a private hearing. The Mayor and the employee may give testimony, call witnesses, and be represented by legal counsel.

Within ten days after the hearing the Commission shall render a decision, which may affirm, disaffirm, or modify the disciplinary action and shall notify in writing, by certified mail with return receipt requested, the employee and the Mayor of its action. The employee and the Mayor may appeal the decision of the Commission to the Court of Common Pleas.

Section 9. REINSTATEMENT

The Mayor shall restore the Civil Service rights of any employee whose service was interrupted by military service upon application by the veteran within one year of honorable discharge from military service.

A classified employee voluntarily separated from employment without misconduct or delinquency on his part may, with consent of the Civil Service Commission be reinstated within one year of separation to a vacancy in the same or similar office.

Section 10. REDUCTION OF FORCE

When a reduction in force is necessary for any reason, the Mayor shall separate from employment first those classified employees in any service with the least time of service.

Section 11. This Ordinance shall take effect and be in full force as early as allowed by law.

PASSED IN COUNCIL THIS 3RD DAY OF OCTOBER, 2016

ATTEST: _____
CLERK OF COUNCIL

PRESIDENT OF COUNCIL

FILED W/ MAYOR _____
DATE

MAYOR

DATE APPROVED _____

ROLL CALL
FIRST READING

Edwards, aye
Keller, aye
Linville, aye
Moore, aye
Petrosky, aye
Piros, absent
Rowley, aye

SECOND READING

Edwards, aye
Keller, aye
Linville, aye
Moore, aye
Petrosky, aye
Piros, aye
Rowley, aye

THIRD READING

Edwards, aye
Keller, aye
Linville, aye
Moore, aye
Petrosky, aye
Piros, aye
Rowley, aye

OFFICIAL SEAL