

CHAPTER 149 **Civil Service Commission**

EDITOR'S NOTE: Rules and regulations of the Civil Service Commission were adopted by Council by Ordinance 0141-2002, and amended by Ordinance 0208-2002, Ordinance 0154-2010, Ordinance 0203-2010 and Ordinance 0163-2011.

- 149.01 Powers and duties.**
- 149.02 Present employees.**
- 149.03 Organization and attendance requirements.**
- 149.04 RULES.**
- 149.05 APPEALS/GRIEVANCES TO THE COMMISSION.**
- 149.06 FEES.**
- 149.10 SUBPOENA POWER.**
- 149.20 FAILURE TO APPEAR.**
- 149.25 SETTLEMENTS AND WITHDRAWALS.**
- 149.30 DISPOSITION OF APPEALS/GRIEVANCES.**
- 149.35 FURTHER APPEALS.**

CROSS REFERENCES

Charter provisions - see CHTR. Art. XIII
Civil service - see Ohio Const., Art. XV, §10
Civil Service Law - see Ohio R.C. Ch. 124

149.01 POWERS AND DUTIES.

The Civil Service Commission shall have the power to adopt rules and regulations concerning the selection, promotion, demotion, discipline and removal of employees within the classified service of the Municipality, provided such rules and regulations do not conflict with the provisions of this chapter or the laws of the State; such rules and regulations for the classified service shall not take effect until they are approved by ordinance **JURISDICTION DERIVED FROM ARTICLE XIII OF THE CHARTER, AND THE POWER, AND DUTY TO HEAR AND DECIDE APPEALS/GRIEVANCES FROM ADMINISTRATIVE DETERMINATIONS PURSUANT TO THE PROVISIONS OF THE CIVIL SERVICE RULES AND REGULATIONS AS ENACTED BY COUNCIL AND THE CODIFIED ORDINANCES. THE COMMISSION SHALL HAVE SUCH OTHER POWERS, DUTIES, AND FUNCTIONS AS PROVIDED BY ORDINANCE AND IN ACCORDANCE WITH APPLICABLE COLLECTIVE BARGAINING AGREEMENTS.** THE CITY MAY, FROM TIME TO TIME, CONTRACT WITH OTHER PUBLIC ENTITIES. (Ord. 0178-2006. Passed 9-18-06.)

149.02 PRESENT EMPLOYEES.

Any person who has served the ~~Municipality~~ CITY in a position included in the classified service for at least thirty days preceding the effective date of Ordinance 193-95 shall retain his position without examination until discharged, reduced, promoted or transferred in accordance with this chapter or the rules and regulations of the Civil Service Commission adopted hereunder. (Ord. 193-95. Passed 12-19-95.)

149.03 ORGANIZATION AND ATTENDANCE REQUIREMENTS.

Council shall establish the date, time and place for the first meeting each year, at which the Civil Service Commission shall organize under a Chairman and Vice Chairman. The Mayor shall preside at this meeting until the Chairman is elected. The Civil Service Commission shall establish its own rules of procedure. ~~except that meetings must be held at least once a month, shall be open to the public, and a record of its resolutions, findings and determinations shall be maintained. Also, any member of the Civil Service Commission who has been absent from three regular meetings of the Civil Service Commission during a calendar year, whether excused or not, is removed from membership on said Civil Service Commission.~~ THE CLERK OF COUNCIL SHALL SERVE AS THE SECRETARY OF THE BOARD, SHALL SERVE AS THE OFFICIAL CUSTODIAN OF THE RECORDS OF THE COMMISSION, AND SHALL PERFORM SUCH DUTIES FOR THE COMMISSION AS IS REQUIRED. ALL FILINGS PERTAINING TO OFFICIAL BOARD ACTIONS AND APPEALS/GRIEVANCES SHALL BE SUBMITTED TO THE CLERK. A DULY APPOINTED DEPUTY CLERK OF COUNCIL MAY PERFORM THE DUTIES PRESCRIBED FOR THE CLERK UNDER THIS SECTION. (Ord. 0178-2006. Passed 9-18-06.)

149.04 RULES.

THE CIVIL SERVICE RULES & REGULATIONS AS ADOPTED BY CITY COUNCIL SHALL BE KEPT ON FILE WITH THE CLERK OF COUNCIL AND THE DEPARTMENT OF HUMAN RESOURCES FOR INSPECTION BY THE PUBLIC. THE CIVIL SERVICE RULES & REGULATIONS SHALL BE FORMALLY EVALUATED EVERY 5 YEARS BY CITY COUNCIL.

149.05 APPEALS/GRIEVANCES TO THE COMMISSION.

A. PARTIES. THE PARTY FILING AN APPEAL/GRIEVANCE IS THE APPELLANT. THE PARTY AGAINST WHOM AN APPEAL/GRIEVANCE HAS BEEN FILED IS THE APPELLEE. A PARTY SHALL HAVE THE RIGHT TO APPEAL/GRIEVE AN ADMINISTRATIVE DETERMINATION PURSUANT TO PROVISIONS OF THE CIVIL SERVICE RULES AND REGULATIONS AND THE CODIFIED ORDINANCES OF THE CITY OF GAHANNA.

B. RULES OF EVIDENCE. THE RULES OF EVIDENCE PREVAILING IN CIVIL ACTIONS IN OHIO COURTS OF GENERAL JURISDICTION ARE ADOPTED FOR GUIDANCE IN HEARINGS BEFORE THE COMMISSION, EXCEPT AS MODIFIED BY THIS CODE, CIVIL SERVICE RULES & REGULATIONS, AND CIVIL SERVICE RULES OF PROCEDURE. THE RULES OF EVIDENCE SHALL NOT BE STRICTLY APPLIED, BUT DEFERENCE MAY BE AFFORDED TO THE RULES OF EVIDENCE.

C. APPELLANT'S REQUIREMENTS. APPEALS/GRIEVANCES SHALL BE IN WRITING AND SHALL BE FILED WITH THE CLERK OF COUNCIL WITHIN 30 CALENDAR DAYS FROM THE DATE OF THE ACTION BEING APPEALED. AN APPEAL IS CONSIDERED FILED WHEN IT IS TIME STAMPED BY THE OFFICE OF THE CLERK OF COUNCIL. ANY APPEAL/GRIEVANCE RECEIVED AFTER 5:00 P.M. ON A BUSINESS DAY OR AT ANY TIME ON A NON-BUSINESS DAY SHALL BE CONSIDERED TO BE FILED ON THE NEXT BUSINESS DAY. THE FOLLOWING ITEMS SHALL BE FILED WITH EACH APPEAL/GRIEVANCE:

- (1) A COPY OF THE ACTION BEING APPEALED/GRIEVED SHALL BE ATTACHED TO THE APPEAL/GRIEVANCE.
- (2) A STATEMENT OUTLINING THE REASON OR LEGAL BASIS FOR THE APPEAL/GRIEVANCE, ALONG WITH A CITATION OF THE APPLICABLE RULES AND REGULATIONS SECTION(S) SIGNED BY THE APPELLANT AND/OR AGENT.
- (3) THE NAME, ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS OF THE APPELLANT AND/OR AGENT. APPELLANTS SHALL NOTIFY THE CLERK OF COUNCIL, IN WRITING, OF ANY CHANGE OF ADDRESS WHILE AN APPEAL IS PENDING.

D. APPELLEES'S REQUIREMENTS. WITHIN SEVEN (7) BUSINESS DAYS OF NOTIFICATION OF AN APPEAL/GRIEVANCE, THE APPELLEE SHALL TRANSMIT TO THE CLERK OF COUNCIL THE RECORDS PERTAINING TO THE MATTER UNDER APPEAL/GRIEVANCE. FURTHER, THE COMMISSION MAY REQUIRE THE APPELLEES TO PROVIDE A WRITTEN STATEMENT DESCRIBING THE BASIS FOR THE DECISION UNDER APPEAL/GRIEVANCE.

E. FILING AND TRANSMITTAL OF APPEALS/GRIEVANCES. THE CLERK OF COUNCIL SHALL REVIEW THE APPELLANT'S FILINGS TO ENSURE THIS SECTION IS COMPLIED WITH, AND SHALL ADVISE THE APPELLANT. UPON COMPLIANCE WITH THIS SECTION, THE CLERK SHALL FORWARD TO THE COMMISSION MEMBERS ALL DOCUMENTS FILED BY THE APPELLANT. THE CLERK SHALL ALSO FORWARD TO THE COMMISSION MEMBERS THE OFFICIAL RECORD FROM THE DEPARTMENT OF HUMAN RESOURCES.

F. NOTIFICATION PROCEDURES. AT LEAST TWENTY (20) CALENDAR DAYS PRIOR TO THE HEARING, THE CLERK OF COUNCIL SHALL NOTIFY IN WRITING THE APPELLANT, THE APPELLEE(S), AND ANY INTERESTED PARTIES OF RECORD CONCERNING THE DATE, TIME, AND LOCATION OF THE HEARING. AT THE DISCRETION OF THE COMMISSION CHAIR THE TIME REQUIREMENTS MAY BE WAIVED.

G. CONTINUANCES. EITHER PARTY MAY REQUEST A CONTINUANCE OF NOT MORE THAN THIRTY (30) CALENDAR DAYS. SUCH REQUEST MUST BE MADE AT LEAST SEVEN (7) CALENDAR DAYS PRIOR TO THE SCHEDULED HEARING. AT THE DISCRETION OF THE COMMISSION CHAIR THE TIME REQUIREMENTS MAY BE WAIVED. IF A CONTINUANCE IS GRANTED, IT IS INCUMBENT UPON THE APPELLANT AND THE APPELLEE TO INFORM ANY WITNESSES, INCLUDING THOSE THAT HAVE BEEN SUBPOENAED, OF THE CONTINUANCE.

H. HEARING RECORD. IF A PARTY WISHES TO HAVE A STENOGRAPHER PRESENT AT HEARING, THE PARTY MAY ARRANGE TO HAVE ONE PRESENT AND SHALL PROVIDE AT LEAST TWO BUSINESS DAYS PRIOR WRITTEN NOTICE TO THE CLERK. THE PARTY REQUESTING THE STENOGRAPHER IS RESPONSIBLE FOR THE COST OF SUCH STENOGRAPHER. THE COMMISSION MAY HAVE A STENOGRAPHER PRESENT AT A HEARING. IF A STENOGRAPHER IS PRESENT IN ACCORDANCE WITH THIS SECTION, THE STENOGRAPHER'S TRANSCRIPT SHALL BE THE OFFICIAL RECORD. IF NO STENOGRAPHER IS PRESENT, THE CLERK'S MINUTES SERVE AS THE OFFICIAL RECORD OF THE HEARING.

I. APPEARANCES. AN APPELLANT MAY REPRESENT HIMSELF OR HERSELF. AN APPELLANT MUST FILE NOTICE OF REPRESENTATION BY AN ATTORNEY AND/OR AGENT PROVIDING NAME AND CONTACT INFORMATION FOR THE ATTORNEY AND/OR AGENT. SUCH NOTICE SHALL BE FILED AT LEAST FOURTEEN (14) DAYS BEFORE THE HEARING. ANY PARTY WHO HAS A COLLECTIVE BARGAINING REPRESENTATIVE MUST BE REPRESENTED BY THE DESIGNATED REPRESENTATIVE, UNLESS THE APPELLANT SUBMITS TO THE COMMISSION A LETTER FROM THE COLLECTIVE BARGAINING REPRESENTATIVE AUTHORIZING OTHER REPRESENTATION. A PERSON WHO FILES AN APPEAL/GRIEVANCE IS REQUIRED TO APPEAR PERSONALLY AT THE HEARING. EMPLOYERS SHALL APPEAR THROUGH A DESIGNATED REPRESENTATIVE OR AN ATTORNEY. ANY PARTY MAY CROSS EXAMINE A WITNESS THEMSELVES OR THROUGH THEIR DESIGNATED REPRESENTATIVE OR ATTORNEY.

J. SUBSTITUTION OF PARTIES. IF AN APPELLANT DIES OR IS INCAPACITATED DURING THE PENDENCY OF AN APPEAL/GRIEVANCE, THE APPELLANT'S EXECUTOR OR ADMINISTRATOR MAY BE SUBSTITUTED FOR THE APPELLANT. AN APPEAL/GRIEVANCE SHALL BE HELD OPEN FOR A REASONABLE TIME TO PERMIT THIS SUBSTITUTION.

K. RULES OF PROCEDURE. ANY MATTER CONCERNING HEARING PROCEDURES NOT GOVERNED HEREIN SHALL BE GOVERNED BY THE COMMISSION'S RULES OF PROCEDURE.

L. STANDARDS. THE CITY HAS THE BURDEN OF PROOF FOR ACTIONS INVOLVING DISCIPLINE, SUSPENSION, DEMOTION, OR TERMINATION OF AN EMPLOYEE. IN ALL OTHER MATTERS, THE APPELLANT OR PROPONENT OF A POSITION WHICH SHALL BE BEFORE THE COMMISSION HAS THE BURDEN OF PROOF BY A PREPONDERANCE OF THE EVIDENCE. THE COMMISSION SHALL CONSIDER ALL RELEVANT EVIDENCE BROUGHT BEFORE IT, PROVIDED HOWEVER, EVIDENCE NOT DISCLOSED AS REQUIRED MAY ONLY BE ADMITTED IN ACCORDANCE WITH THE COMMISSION'S RULES OF PROCEDURE. EVIDENCE NOT ADMITTED INTO THE RECORD BY THE COMMISSION MAY BE PROFFERED INTO THE RECORD BY A PARTY.

M. SERVICE. ALL DOCUMENTS FILED WITH THE CLERK OF COUNCIL SHALL ALSO BE SERVED UPON THE OPPOSING PARTY, OR IF THE PARTY IS REPRESENTED BY COUNSEL, UPON COUNSEL. FAILURE TO COMPLY WITH THIS MAY RESULT IN THE COMMISSION STRIKING THE DOCUMENT FROM THE RECORD.

149.06 FEES.

THERE ARE NO FEES TO FILE AN APPEAL/GRIEVANCE WITH THE CIVIL SERVICE COMMISSION.

149.10 SUBPOENA POWER.

THE COMMISSION SHALL HAVE THE POWER TO SUBPOENA AND REQUIRE THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION THEREBY OF BOOKS, PAPERS, PUBLIC RECORDS AND OTHER DOCUMENTARY EVIDENCE PERTINENT TO ANY HEARINGS, AND TO EXAMINE THEM AS IT MAY REQUIRE IN RELATION TO ANY MATTER WHICH IT HAS AUTHORITY TO HEAR. SUBPOENAS MUST BE ISSUED AT LEAST TEN (10) CALENDAR DAYS PRIOR TO THE HEARING. ALL OFFICERS AND EMPLOYEES IN THE SERVICE SHALL ATTEND AND TESTIFY WHEN SUMMONED TO DO SO

BY THE COMMISSION. ANY PARTY MAY REQUEST THAT THE COMMISSION ISSUE A SUBPOENA.

149.20 FAILURE TO APPEAR.

IF THE PARTY HAVING THE BURDEN OF PROOF FAILS TO APPEAR, THE COMMISSION MAY DISMISS THE APPEAL/GRIEVANCE, GRANT APPROPRIATE RELIEF, OR BASED UPON THE INFORMATION AVAILABLE TO THE COMMISSION, RESOLVE THE APPEAL/GRIEVANCE IN THE MANNER IT DEEMS APPROPRIATE.

149.25 SETTLEMENTS AND WITHDRAWALS.

AN APPEAL/GRIEVANCE MAY BE WITHDRAWN AT ANY TIME PRIOR TO A DECISION OF THE COMMISSION. AN APPEAL/GRIEVANCE MAY BE SETTLED BY THE PARTIES TO THE HEARING AT ANY TIME PRIOR TO A DECISION OF THE COMMISSION. ANY SETTLEMENT OR WITHDRAWAL SHALL BE FILED IN WRITING PRIOR TO THE HEARING OR MADE ON THE RECORD AT THE HEARING.

149.30 DISPOSITION OF APPEALS/GRIEVANCES.

IN ANY APPEAL/GRIEVANCE THE COMMISSION MAY AFFIRM, REVERSE, MODIFY THE DECISION OR DISMISS THE APPEAL/GRIEVANCE. A RECORD OF ACTION SHALL BE SENT TO THE PARTIES BY THE CLERK OF COUNCIL. SAID DECISION SHALL BE MADE WITHIN SIXTY (60) DAYS OF THE COMPLETION OF THE HEARING.

149.35 FURTHER APPEALS.

ANY DECISION OF THE CIVIL SERVICE COMMISSION WITH REGARD TO AN APPEAL/GRIEVANCE MAY BE APPEALED TO THE FRANKLIN COUNTY COMMON PLEAS COURT BY EITHER PARTY IN ACCORDANCE WITH CHAPTER 2506 OF THE OHIO REVISED CODE.

