Mayor Pacifico

Introduction: NOV 14 2018

Adoption: DEC 05 2018

ORDINANCE NO. 5736

DEC 05 2018

AN ORDINANCE OF THE CITY OF ALTOONA AMENDING THE CODE OF THE CITY OF ALTOONA TO AMEND AND RESTATE CHAPTER 44 ENTITLED "FIRE CIVIL SERVICE COMMISSION", ARTICLE I ENTITLED "RULES AND REGULATIONS" TO: PROVIDE DEFINITIONS; ESTABLISH A FIRE CIVIL SERVICE BOARD AND PROVIDE MEMBERSHIP QUALIFICATIONS AND INCOMPATIBLE POSITIONS, THE BOARD'S ORGANIZATION, DUTIES OF BOARD MEMBERS AND OFFICERS; PROVIDE FOR RULES AND REGULATIONS/EXAMINATIONS FOR FIREFIGHTERS AND FOR THE APPOINTMENT OF EXAMINERS, THE KEEPING OF MINUTES AND REORDS, INVESTIGATIONS AND SUBPOENA POWERS OF THE BOARD; ESTABLISH APPLICATIONS AND QUALIFICATIONS FOR FULL-TIME FIREFIGHTERS AND EXAMINATION AND GRADING PROCEDURES; PROVIDE FOR ELIGIBILITY LIST AND BACKGROUND INVESTIGATION PROCEDURES INCLUDING THE CREATION, DURATION AND REVIEW OF SUCH LIST; ESTABLISH APPOINTMENT PROCEDURES, INCLUDING PHYSICAL /MEDICAL/WRITTEN/ORAL EXAMINATIONS, PROBATIONARY PERIOD; ESTABLISH PROCEDURES FOR FULL-TIME FIREFIGHTER RANKING POSITIONS INCLUDING EXAMINATION AND GRADING PROCEDURES AS WELL AS APPRAISAL BY FIRE CHIEF; CERTIFICATION OF LIST OF ELIGIBLES AND APPOINTMENT AND PROBATIONARY PERIOD AND APPOINTMENT PROCEDURE FOR FIRE CHIEF; ESTABLISH SUSPENSIONS, REMOVALS AND REDUCTION IN RANK/FURLOGH PROCEDURES; PROVIDE REVOCATION; REPEAL OF ALL OTHER ORDINANCES OR PARTS OF LAWS IN CONFLICT THEREWITH; SEVERABILITY OF PROVISIONS AND PROVIDING AN EFFECTIVE DATE.

Be it ordained by the Council of the City of Altoona as follows:

SECTION 1. Chapter 44, Article I of Code of the City of Altoona is hereby amended and restated in its entirety to read as follows:

CHAPTER 44: FIRE CIVIL SERVICE COMMISSION

ARTICLE I RULES AND REGULATIONS

§44-1. Definitions.

A. Unless otherwise expressly stated, the following words and phrases, wherever used in these rules and regulations, shall be construed to have the meaning indicated herein:

Applicant: Any individual who applies in writing to the board in response to a legally advertised notice of vacancy and/or examination for any position in the fire department.

Board: The Civil Service Board of the City of Altoona, Pennsylvania.

Board Member-(Alternate): An individual appointed by the city council to serve as an "Alternate" member of the civil service board. Properly appointed "Alternate" board member shall have all the same powers and duties as a "Primary" appointed board member set forth in the Third Class City Code and as outlined in these rules and regulations.

Board Member-(Primary): An individual appointed by the city council to serve as a "Primary" board member of the civil service board with traditional duties as set forth in the Third Class City Code and as outlined in these civil service rules and regulations.

Certified List of Three: The submission to the City manager, pursuant to his/her request for three names taken from the Firefighter's Eligibility Lists developed by the civil service board.
Chairperson: The Chairperson of the Civil Service Board of the City of Altoona, Pennsylvania.

City Council: The city council of the City of Altoona, Pennsylvania.

City Manager: The appointing authority, as hereby appointed by the City Council of the City of Altoona, Blair County, Pennsylvania, pursuant to the act of July 15, 1957, P.L. 901, No. 399, Cl. 11, the Optional Third Class City Charter Law, of the City of Altoona, shall have the authority to appoint, suspend, remove and reduce in rank, any member of the Altoona Fire Department.

Eligible: A person whose name is recorded on a current eligibility list or furlough list.

Eligibility List: The list of names of persons who have passed all examinations for a particular position in the fire department.

Examinations: The series of tests given to applicants to determine their qualifications for a position in the fire department.

Fire Chief: A firefighter who is appointed by the city manager and not appointed under the provisions of these civil service rules and regulations.

Firefighter: Any qualified firefighter serving in the fire department except as specifically noted.

Full-Time Firefighter: A qualified firefighter hired and/or promoted under the provisions of these civil service rules and regulations.

Furlough List: The list containing the names of persons temporarily laid off from positions in the fire department because of a reduction in the number of personnel.

Medical Examinations: Any examination, procedure, inquiry or test designed to obtain information about medical history or a physical or mental condition which might disqualify an applicant if it would prevent the applicant from performing, with or without a reasonable accommodation, all of the essential functions of the position.

Physician: Shall have the meaning given to it in 1 Pa.C.S. § 1991 that relates to definitions.

Promotion: Ranking Firefighter: A qualified Full-Time Firefighter appointed to a "ranking position" in the fire department, under the provisions of these civil service rules and regulations.

Probationer: A firefighter who has been promotionally appointed from their respective eligibility list, but who has not yet completed the work-test period.

Qualified Medical Professional: An individual, in collaboration with or under the supervision or direction of a physician, as may be required by law, who is licensed: as a physician assistant pursuant to the act of December 20, 1985 (P.L.457, No.112), known as the "Medical Practice Act of 1985," or the act of October 5, 1978 (P.L.1109, No.261), known as the "Osteopathic Medical Practice Act"; or as a certified registered nurse practitioner pursuant to the act of May 22, 1951 (P.L.317, No.69), known as "The Professional Nursing Law."

Reduction in Rank: A change to a different position or rank where the employee fulfilled all of the requirements of these rules and regulations for both the prior and current positions or rank. However, a decrease in salary without a change to a different position or rank shall not necessarily constitute a reduction in rank.

Removal: The permanent separation of a firefighter from the fire department.

Secretary: The Secretary of the Civil Service Board of the City of Altoona, Pennsylvania.

Secretary (Compensated): Person or city department appointed by the board, not a member of the civil service board, to provide additional administrative assistance.

Suspension: The temporary separation without pay of a firefighter from the fire department.

Vice Chairperson: The Vice Chairperson of the Civil Service Board of the City of Altoona.

B. Gender

The words "he," "his," "him," and "men" when used in these rules and regulations represent both the masculine and feminine genders.

§44-2. The Civil Service Board.

A. Establishment of Board. There shall be a civil service board that shall provide for and oversee the examination of applicants for appointment to and promotion to any position in the police or fire department, except to the position of Police Chief or Fire Chief, without having first passed all the examinations herein provided for and without having been appointed in the manner and according to the strict terms and provision and conditions of these civil service rules and regulations. Thus, there shall be one civil service board for both police and fire uniformed positions in the city. The civil service board shall receive no salary or compensation.

B. Board (Primary). The board shall consist of three board members who shall be qualified electors of the city and shall be appointed by the city council initially to serve for the terms of two, three and four years, and as terms thereafter expire shall be appointed for terms of four years.

(1) Any vacancy occurring on the board (Primary) for any reason whatsoever shall be filled by the city council for the unexpired term.

(2) Each member of the board (Primary) created by this subdivision, before entering upon the discharge of the duties of his office, shall take an oath or affirmation of office pursuant to 53 Pa.C.S. § 1141 (relating to form of oaths of office), and file the same, duly certified by the officer administering it, with the city manager.

C. Board (Alternate). City Council may appoint no more than three qualified electors of the city to serve as alternate members of the board. The term of office shall be four years. An alternate shall be entitled to participate in all proceedings and discussions of the board to the same and full extent as provided by law for board members, but shall not be entitled to vote as a member of the board unless designated as a voting alternate member, pursuant to Section 14403.1 of the Third Class City Code and outlined in *Section 44-2E(3) and (4)*, of these civil service rules and regulations. "Alternate" members shall hold no other office in the city.

(1) Each member of the board (Alternates) created by this Chapter, before entering upon the discharge of the duties of their office, shall take an oath or affirmation of office pursuant to 53 Pa.C.S. § 1141 (relating to form of oaths of office).

D. Office Incompatible with Position of Board Member.

No city officer, official or employee shall be eligible for appointment to the civil service board.

E. Organization of Board – Quorum.

(1) The board shall organize for the purpose of transacting all business immediately after the first appointment and thereafter as new appointments to the board are made. After organizing, the board shall appoint one of its members as its chairperson, one as vice chairperson, and one as its secretary.

(2) Two members of the board shall constitute a quorum and no action of the board shall be valid unless it shall have the concurrence of at least two members.

(3) If by reason of absence or disqualification of a member, a quorum is not reached, the chair shall designate as many alternate members of the board to sit on the board as may be needed to provide a quorum. Any alternate member of the board shall continue to serve on the board in all proceedings involving the matter or case for which the alternate was initially designated until the board has made a final determination of the matter or

case. Designation of an alternate shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

(4) For purposes of hiring and promoting firefighters under these rules and regulations, each step of the hiring or promotional process requiring official action by the board shall be considered a separate "matter or case" under Subsection (3), above, and each step of the hiring or promotional process need not be voted upon or approved by the same composition of "Primary" board members or "Alternate" board members, as the case may be, provided that the quorum requirement has been satisfied.

F. Duties of Board Chairperson.

The Board Chairperson, or in his or her absence, the Board Vice Chairperson, shall preside at all meetings and hearings of the board, decide all points of order or procedure and perform all duties required by law including these rules and regulations and shall be a voting member.

G. Duties of Board Vice Chairperson.

The Board Vice Chairperson shall act in the absence of the Board Chairperson in carrying out the duties of the Board Chairperson and shall be a voting member.

H. Duties of the Board Secretary.

The Board Secretary, under the direction of the board, shall work in conjunction with the compensated secretary (*Section 44-2I*) in handling all official correspondence of the board, including the recording of votes cast by the board, send out all notices required by law including these rules and regulations, keeping a record of each examination or other official action of the board, and perform all other duties required by law including these rules and regulations and shall be a voting member.

I. Duties of Secretary (Compensated).

The board shall appoint a compensated secretary or designated city department, who is not a member of the board, and prescribe the duties, and shall have the power to change these duties. The compensated secretary or designated city department, shall be subject to removal at any time by the board. The council shall establish the compensation, if any, to be paid to the compensated secretary or city department, and all necessary stationary and supplies for use of the board shall be supplied by the city.

J. Meetings.

All meetings shall be held either at the call of the chairperson or at the call of two members of the board. Each board member shall be notified in writing of each and every meeting. In all cases regarding meetings, including scheduling, the board shall follow the provisions provided for pursuant to 65 Pa.C.S. Ch. 7, as amended and commonly known as the "Sunshine Law. The order of business for all meetings shall be as follows:

(1) Roll Call
(2) Public Comments (Agenda Items)
(3) Approval of Previous Meeting's Minutes
(4) Communications and Reports
(5) Unfinished Business
(6) Hearing of Cases
(7) New Business
(8) Public Comments (General)
(9) Adjourn

K. Clerical Assistance, Supplies, Solicitor, etc.

The city shall furnish to the board, on its requisition, clerical assistance that may be necessary for the work of the board. The city shall provide a suitable and convenient room for the use of the board. The board shall order from the city the necessary stationery, postage, printing and supplies. The city shall also provide the services of a solicitor for the board to be appointed by the board and paid by the city. The city shall have the authority to place a reasonable limit on the amount allowed each year for the services of the Board Solicitor. The elected and appointed officials of the city shall aid the board in all proper ways in carrying out the provisions of these civil service rules and regulations.

§44-3. Rules and Regulations/Examinations.

A. Examinations Required. No person or persons shall be appointed to any uniformed position in the fire department, excluding the Fire Chief, without having first passed all the examinations herein provided for and without having been appointed in the manner and according to the terms and provisions and conditions provided herein.

B. Rules and Regulations Authorized. The board shall prepare and adopt rules and regulations, subject to approval of council, which in the board's discretion, are best adapted to securing and maintaining the best services for the public for the selection, appointment and promotion of persons who are qualified to perform the work which is subject to the civil service examinations, as provided herein, and who are to be employed, appointed or promoted by the city. The rules and regulations adopted by the board shall provide for ascertaining and determining, so far as possible, the knowledge, skills, aptitude, mental and physical abilities, experience, education and character of all applicants as these criteria would reasonably apply to the respective positions; and the rules and regulations shall provide for examinations upon any and all subjects deemed proper or necessary by the board for the purpose of determining the qualifications of applicants for the respective positions sought and for which application is made.

§44-4. Appointment of Examiners.

A. Board Appointment. The board shall appoint experienced and qualified written, oral and physical agility examination administrators to conduct appropriate examinations required by these rules and regulations. The board shall reserve the right to accept or reject, for cause in whole or in part the recommendations of the appointed examining agency provided the reason(s) for doing so is not arbitrary and is consistent with these Rules and Regulations.

B. Medical Exam. The city manager shall have the responsibility to appoint the medical examiner, as outlined in *Section 44-12B,* of these rules and regulations.

§44-5. Amendment of Rules & Regulations.

The board, either itself or upon recommendation by the city, may amend, revise, void or replace these rules and regulations for any reason by action of a majority of the board. Before any changes to these rules and regulations become effective, those changes must be approved by the city council. These rules and regulations, and any amendments thereto, once approved, by the city council, shall be made available to the public for distribution or inspection, as amended.

§44-6. Minutes and Records.

The board shall keep minutes of its proceedings and records of examinations and other official actions. All records of the Commission shall be preserved and disposed of according to the Retention and Disposition Schedule for Records of Pennsylvania

Municipalities issued by the Local Governments Committee under the authority of the Municipal Records Act, 53 Pa.C.S.A. § 1381 et seq.

§44-7. Investigations.

The board shall have the power to make investigations concerning all matters relating to the administration and enforcement of these rules and regulations. The Chairperson of the Board is authorized to administer oaths and affirmations in connection with such investigations.

§44-8. Subpoenas.

A. Issuance. The board shall have the power to issue subpoenas over the signature of the chairperson or designee and to require the attendance of witnesses and the production of records and papers pertaining to matters before the board, including any background investigations conducted pursuant to any applicable rules and regulations. The fees of such witnesses for attendance and travel shall be the same as for witnesses appearing in the courts and shall be paid from appropriations for the incidental expenses of the board.

B. Penalty. All firefighters in public service and employees of the city shall attend and testify when required to do so by the board. If any person shall refuse or neglect to obey any subpoena issued by the board, upon conviction of such refusal or neglect in a summary proceeding, that person shall be sentenced to pay a fine not to exceed one hundred dollars ($100.00), and default of the payment of such fine and costs shall be imprisoned not to exceed thirty (30) days.

(1) Contempt of Court. If any person shall refuse or neglect to obey any subpoena, the board may apply by petition to the Court of Common Pleas of Blair County, Pennsylvania, for its subpoena, requiring the attendance of such persons before the board or the court to testify and to produce any records and papers as necessary, and in default, shall be held in "Contempt of Court."

§44-9. FULL TIME FIREFIGHTER APPLICATIONS AND QUALIFICATIONS

A. Eligibility for Examinations. In order to be eligible for participation in the initial examinations for a Full-Time Firefighter position with the Altoona Fire Department, every applicant must submit a completed application form to the board or other offices or agencies designated by the board, before the deadline stated for that specific examination. The applicant must make an oath or affirmation that the application has been completed truthfully, and that the applicant is subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

B. Discrimination. The City of Altoona is an equal opportunity employer. It is the City Council and the board's policy to grant equal employment opportunities to qualified persons without regard to race, religion, color, national origin, gender, lesbian, gay, bisexual, transgender, age, veteran's status, marital status, sexual orientation, and non-job related physical or mental handicap or disability. The city council and the board will provide equal opportunities in employment and promotion.

C. Applications. Application forms shall be available to all interested persons in city hall and from such other offices that the board may choose to designate. Application forms may be mailed to a potential candidate upon written or telephone request. However, the board assumes no responsibility for missed filing deadline dates due to a delay in the mail or for any other reason.

D. Age Requirements and Residency Requirement. All applicants must have reached their eighteenth (18) birthday before the deadline for submitting completed applications.

All firefighters accepted for employment shall be required to reside within the city limits of the City of Altoona within (six) 6 months from the time of commencement of said employment.

E. General Qualifications. At the time of application, every applicant for any position in the Altoona Fire Department must possess the following qualifications:

(1) A diploma from an accredited high school or a graduate equivalency diploma (GED).

(2) Be a United States Citizen.

(3) Be physically and mentally fit to perform the essential duties of a firefighter for the Altoona Fire Department as determined by the physical agility and physical examination.

(4) Possess a valid motor vehicle operator's license

F. Public Notice – Notification. The board shall conspicuously post in city hall, or other conspicuous locations, an announcement of the hiring and set forth the time and place of every examination, together with the information as to the type of position to be filled, the requirements for that position, where applications may be obtained for the examination, and the deadline for filing those applications. For the entry level position(s), at least two (2) weeks prior to first examination, a publication of the notice shall be placed in at least one newspaper of general circulation in the City of Altoona, the Altoona Mirror, as a minimum, and/or any such other newspapers and in such other manner as may be directed by the board.

(1) The City Manager, or other designated person, shall give, in writing, to each applicant qualified for the next step in the examination process, a notice which shall include the date, time and place the applicant shall report for the next examination in the process. In the case of physical examinations, the city manager shall notify the candidate who has been conditionally offered a position in the fire department, by a written notice, of the date, time and place of the examination as well as the name of the physical examiner.

(2) Every such notice shall be mailed or otherwise delivered/notified at least seven (7) days prior to the date fixed for examination. Only applicants receiving notices to report for any examination shall be permitted to participate in such examination, and each applicant shall present his or her notice to the examiner before he or she shall be examined. Failure to report for an examination in accordance with the instructions contained in the written notice shall disqualify the applicant, but in the case of a physical examination, the physician designated in the notice may fix another date or time for such examination, provided, however, that any such date or time shall be written with the period of at least seven (7) days of the date and time established in the written notice.

G. Recording and Filing Applications.

(1) Applications for the entry level position(s) shall be received at the Office of the Fire Chief, Office of the City Manager or other offices or agencies designated by the board, only after the firefighters position has been properly advertised and before the deadline for receiving the applications, which must be set forth in the advertisement. That person(s) shall record the receipt of all applications, indicating the time and date received and provides each applicant with notice of the time and place for the

first portion of the testing process. A non-refundable application fee, determined by the board, will be required to be paid by the applicant for firefighter at the time the application is submitted. Any application containing material errors or omissions may, at the discretion of the board, be returned to the applicant for correction, prior to the deadline for filing applications; however, the board is not responsible for proof reading submitted applications to ensure the applicant has submitted a complete and proper application. No new applications or amended applications or supporting documents will be accepted after the advertised closing time and date.

(2) Penalty for False Statement: The statements made by the applicant in the official application shall contain no falsification, omissions or concealment of material fact. Should any investigation disclose any material misstatement, falsification or concealment with respect to an application:

(a) The application shall be invalid and the applicant shall be disqualified from examination, or

(b) If the applicant shall have been examined, the name of such applicant shall be removed from the eligibility list, or

(c) If the applicant shall have been appointed, such material misstatement, falsification or concealment shall constitute grounds for dismissal from the Altoona Fire Department.

(d) No person who has made a material false application shall be permitted in the future to be an applicant for any position in the Altoona Fire Department.

H. Rejection of Applicant. The board may refuse to examine, or if examined, may refuse to certify as eligible after examination, any applicant who is found to lack any of the minimum qualifications for examination prescribed in these rules and regulations. In addition, the board may refuse to examine, or if examined, may refuse to certify any applicant who is:

(1) Found to lack any of the minimum qualifications for examination prescribed in the rules and regulations or have furnished incomplete, inaccurate, misleading or false information on the official application or in response to any portion of the hiring process.

(2) Physically or mentally unfit to perform the essential duties of the position of which the candidate seeks employment.

(3) Illegally using a controlled substance, as defined in section 102 of the Controlled Substance Act (Public Law 91-513, 12 U.S.C. § 802).

(5) Guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct of office.

(6) Affiliated with any group whose policies or activities are subversive to the forms of government set forth in the constitution and laws of the United States and the Commonwealth of Pennsylvania.

(7) Found to have engaged in misconduct, such as but not limited to any conduct which would constitute a violation of any law of this Commonwealth, ordinance or policy of the city, or regulation, policy, or standard operating procedure of the department.

I. Hearing for Disqualified Applicants.

(1) Any applicant aggrieved by refusal of the board to examine or certify the applicant as eligible after examination, the board shall, at the request of the applicant, within ten (10) working days, appoint a time and place for a public hearing, which shall be conducted pursuant to the procedures set forth in the Local Agency Law, 2 Pa. C.S. Section 101 et. seq., with or without counsel, at which time the board shall take testimony and review its refusal to provide examination or certification.

(2)The deliberations of the board, including interim rulings on evidentiary or procedural issues, may be held in the nature of a closed executive session. The board's disposition of the matter shall constitute official action which shall occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings). The decision of the board shall be final.

§44-10. EXAMINATION AND GRADING PROCEDURE

A. General Examination Requirements. The examination for an entry level firefighter position shall consist of a physical agility test, written examination, oral examination and a background investigation. The written examination and the oral examination will be graded individually on a one hundred (100%) scale. The written examination will represent sixty percent (60%) of the final score. The oral examination will represent forty percent (40%) of the final score. The physical agility test and the background investigation will be graded pass/fail. The testing process will be as follows:

(1) Physical Agility Test: Those candidates passing the physical agility test, as outlined in *Section 44-10B,* will qualify to take the written examination.
Note: At the discretion of the board, the written examination may precede the physical agility testing.

(2) Written Examination: Those candidates passing the written test as outlined in *Section 44-10C* will qualify for the oral examination.

(3) Oral Examination: Those candidates passing the oral examination, as outlined in *Section 44-10D* will then be placed on the eligibility list, after those qualifying for veteran's preference points, as outlined in *Section 44-10-E,* have been awarded those preference points.

(4) Background Investigation: Prior to being considered for appointment on the "Certified List of Three" the applicant will undergo a complete background investigation, as outlined in *Section 44-11D.* Although a requirement, only a sufficient number of top scoring candidates necessary for consideration, as determined by the civil service board, will need to have a background investigation performed.

B. Physical Agility Testing.

(1) An applicant for the entry level position shall meet the physical agility requirements, in accordance with the criteria established by the board or other agencies designated by the board. In all cases, the physical agility examination shall be job related and consistent with business necessity and the candidates shall be provided with the physical agility requirements prior to the time of physical agility testing. The physical agility test shall be pass/fail.

(2) Applicants who successfully pass or fail the physical agility test will be so notified at the completion of the physical agility test or within thirty (30) days, by the board. If the

candidate passes the physical agility test, the candidate will be notified of the time and place for the next step of the hiring process, the written examination.

C. Written Examination.

The written examination shall be graded on a 100 point scale, and an applicant must score seventy percent 70% or higher and receive one of the top thirty (30) highest scores or a lesser number if there were less than thirty (30) applicants who may have passed the written test, including ties in order to continue in the application process. Applicants scoring less than seventy percent (70%) or not receiving one of the top thirty (30) highest scores or a lesser number if there were less than thirty (30) applicants who may have passed the written test, shall be rejected. Within thirty (30) days after the administration of the written examination, all applicants shall be given written notice of their test results and passing applicants shall be scheduled for an oral examination appointment.

D. Oral Examination.

Every applicant who scored seventy percent (70%) or higher on the written examination and received one of the top thirty (30) highest scores or a lesser number if there were less than thirty (30) applicants who may have passed the written test, including ties, in order to continue in the application process shall be given an oral examination in order to continue in the application process. The oral examination will be graded on a 100 point scale with a score of seventy percent (70%) or higher necessary for passing. The oral examination shall involve questioning applicants on how they would handle situations relevant to the position of firefighter. Within thirty (30) days after the applicants' oral examination, they shall be informed of the score in their oral examination and total overall score.

E. Veterans' Preference Points.

Pursuant to the Veterans' Preference Act, any applicant for the position of Full-Time Firefighter who qualifies as a "soldier" under the Act shall be accorded an additional ten (10) points on top of their final score by the board, prior to being placed on the eligibility list, if that applicant qualifies under, *Section 44-10A, 44-10B,44-10C and 44-10D,* of these rules and regulations. Applicants claiming veteran's preference shall have submitted satisfactory proof of service and honorable discharge therefrom, such as an appropriate DD Form 214, with their application form.

§44-11. ELIGIBILITY LIST AND BACKGROUND INVESTIGATION

A. Creation of Eligibility List.

(1) At the completion of the examination requirements set forth in *Section 44-10B, 44-10C and 44-10D,* the written examination, the oral examination, and the physical agility testing, the board shall rank all passing candidates on an eligibility list(s). The applicant having received the highest score shall be at the top of the list, with all other candidates being listed in descending order of their scores. Applicants who qualify for veteran's preference points, as outlined in *Section 44-10E,* shall have those ten (10) points added to their final score prior to being ranked on the eligibility list.

(2) In the case of tied scores, the tie will be broken by giving preference to the applicant who received the highest score on the written test. In the event the qualifying applicant received identical scores, the order of listing shall be determined by earliest application received.

(3) Any individual appearing on an eligibility list(s), as described above, is subject to a background investigation and no one will be certified in accordance with *Section 44-12A,* of these rules and regulations until they have successfully completed these investigations and received a written recommendation that the applicant is appropriate for consideration in accordance with *Section 44-11D,* of these rules and regulations.

B. Duration of Eligibility List.

The board shall furnish to council a certified copy of the eligibility list so prepared and kept. The eligibility list shall be maintained for a period of two (2) years or until a new list is certified to council, whichever occurs first, and are public records.

C. Review of Eligibility List.

The eligibility list shall be annually examined by the board for the purpose of deleting therefrom persons who are permanently unavailable for or disqualified for the position of Full-Time Firefighter, either by death, permanent removal of the area, written desire to be removed therefrom, or from other permanent cause. The board shall, by every reasonable cause, get a written notice from the candidate removed from the list and provide a notice to that candidate, in writing that the candidate will no longer be considered for the position.

D. Background Investigation.

(1) The board shall request the Fire Chief to conduct a background investigation on the top scoring eligible applicants, on the eligibility list(s), as determined by the civil service board, prior to inclusion on the certified list of those eligible as set forth in *Section 44-12A,* of these rules and regulations.

(2) The background investigation must be consistent for each applicant. The Fire Chief will require the applicant to complete a Pennsylvania State Police criminal background clearance (criminal history), a Child Abuse History Clearance from the Department of Human Services, and an FBI criminal background clearance. Copies of the results of the background checks will be provided to the Fire Chief before established deadlines in order to be considered for the list of eligibles. All costs involved in the completion of background checks will be the responsibility of the applicant. The background checks' results must meet the requirements of applicable State laws (23 Pa.C.S. § 6301 et seq.). The applicant may be interviewed directly by the Fire Chief or his/her designee when the information collected requires clarification or further explanation.

(3) After the background investigation is completed, the Fire Chief or the chief's designee, shall make a written recommendation to the city manager on whether the applicant is appropriate for consideration for appointment as a firefighter for the City of Altoona.

(4) The recommendation by the Fire Chief shall be based on the criteria set forth in *Section 44-9H,* of these rules and regulations and on any other relevant information developed during the background investigation. This report to the city manager shall be in writing and in compliance with the Americans with Disabilities Act and must not include any physical history information on a candidate. If the recommendation is to disqualify, then a detailed, written explanation of the reasons for disqualification must be included. The city manager shall then make a final determination on whether additional information is required or if the information collected and reported warrants acceptance or rejection of the candidate.

(5) Within thirty (30) days after the city manager considers the recommendation based on the background investigation, each applicant shall be notified as to whether they have passed or failed this portion of the examination process.

§44-12. APPOINTMENT PROCEDURE

A. Appointing Authority.

Furloughed firefighters shall be given first consideration for re-employment, prior to any other hiring procedure and shall be reinstated in order of their seniority as outlined in *Section 44-17E,* of these rules and regulations.

(1) Except as provided above, every initial position of Full-Time Firefighter for employment in the fire department shall be filled only in the following manner:

(a) The city manager shall notify the board of any vacancy which is to be filled and shall request certification (Certified List of Three) from the eligibility list.

(b) If three (3) names are not available, then the board shall certify the name(s) remaining on the list.

(c) The city manager shall make an appointment, contingent upon the appointees passing a medical exam.

(d) At the time of the appointment of a Full-Time Firefighter, the city manager shall advise the mayor and city council of such appointment.

(2) Veterans Preference: The exception to the above procedure is when a qualified veteran is on the "Certified List of Three," the city manager shall appoint the veteran, conditioned upon passing a medical examination. If two or more of the names on the "Certified List of Three" are veterans, the city manager shall have the discretion to appoint anyone of those veterans, conditioned upon successfully passing a medical examination.

(a) The name of the candidate appointed shall be immediately stricken from the "Certified List of Three" or a lesser number if three names are not on the certified list. The names of the non-appointed candidates shall then immediately be restored to their proper place on the certified list and an additional candidate, with the highest score on the eligibility list, shall then be elevated to the "Certified List of Three," if qualified names remain on the eligibility list.

(b) If the name of any applicant has appeared on the "Certified List of Three," and not appointed and been rejected three times or the conditional applicant has been determined by the medical examination process to be unqualified, the applicant's name(s) shall be stricken from the certified list as eligible for appointment.

B. Physical (Medical) Examination.

(1) After the city manager selects a candidate from the "Certified List of Three" for appointment to the vacant position, that candidate shall receive a conditional offer of employment. The offer of employment shall be conditioned upon the conditional appointee undergoing a physical examination and a determination that the conditional appointee is capable of performing all the essential functions of the position. Physical examinations shall be under the direction of a physician or other qualified medical professional.

(2) The physician or other qualified medical professional shall be appointed by the city manager and shall render an opinion within a reasonable degree of medical certainty as to whether the conditional appointee has physical conditions which calls into question the

person's ability to perform all of the essential functions of the position for which the person was conditionally appointed.

(3) Drug testing shall be included as one component of the requirements. In addition, the respective examiners will be given a copy of the job description and the "Essential Functions of the Job" for performing the duties of a firefighter. The completed forms will be certified by the examining physician(s) indicating that the candidate is physically fit to perform the duties of a firefighter and as outlined below. The completed forms shall be confidential and submitted to the appropriate city official for disposition.

(4) If the opinion rendered by the physician or other qualified medical professional calls into question the conditional appointee's ability to perform all essential functions of a position, the city manager or designee shall meet with the conditional appointee for the purpose of having one or more interactive discussions on whether the conditional appointee can, with or without reasonable accommodations, perform all the essential functions of the position.

(5) If, at the conclusion of the interactive discussion, the city manager or designee determines that the conditional appointee is not qualified, the city manager or designee shall give written notice to the conditional appointee and the board of their decision. This written notice shall also notify the conditional appointee of their right to appeal the decision to the board within 10 working days from the date of the written notice.

(6) The rejected candidate may appeal this decision under *Section 44-9I,* of these rules and regulations. If the candidate fails to timely exercise their rights of appeal, or if the board declines to uphold the appeal, the board shall strike the name from the eligibility list and certify the next highest name for inclusion on the "Certified List of Three."

C. Probationary Period.

(1) Every successful applicant for the position of Full-Time Firefighter shall serve a six (6) month probationary period. For newly hired firefighters, the probationary period will begin on the first day of hire. During this probationary period, a newly hired firefighter may be dismissed for cause for the reasons set forth in *Section 44-9H,* of these rules and regulations, or because of incapacity for duty due to the use of alcohol or drugs. In addition, a probationary firefighter may be dismissed, if the probationary firefighter does not meet the requirement expectations of the position and documentation is accurately documented.

(2) The Fire Chief shall submit to the city manager a final probationary report, not less than ten (10) days immediately preceding the end of the probationary period. Each report shall be submitted in writing to city manager. Within five (5) calendar days after receiving a probationary report from the Fire Chief, if the conduct of the probationer has not been satisfactory to the city manager, the probationer shall be notified in writing by the city manager that the appointment will not be permanent. Following receipt of this notification by the probationer, a newly hired firefighter's employment shall end. Any probationer who is notified in writing by the city manager, prior to completion of the 12 month probationary period, that his appointment will not be made permanent, has no rights of appeal under these rules and regulations.

(3) The city manager shall notify the board, in writing, of its decision to retain or remove the probationer of such decision within five (5) calendar days and in no event beyond the last day of the probationary period.

(4) At the end of the six (6) month probationary period, if the probationer is not notified or dismissed in accordance with this Chapter, the newly hired shall receive permanent status within the fire department.

§44-13. FULL-TIME FIREFIGHER (RANKING/PROMOTION POSITIONS)

A. APPLICATION AND QUALIFICATIONS

(1) Eligibility for Examinations.

All applicants for a promotional position, except the Fire Chief, shall not have received a formal written reprimand or demotion for one (1) year prior to the deadline for submitting applications, and have not been suspended without pay at any time three (3) years prior to the deadline for submitting applications. Any formal written reprimand, demotion, or suspension to which the applicant has timely appealed pursuant to a grievance procedure or these rules and regulations shall be disregarded unless the appeal is resolved prior to the creation of the eligibility list.

(a) All applicants for promotional ranking firefighter positions, except the Fire Chief, shall have continuous prior service with the Fire Department of the City of Altoona and additional qualifications, as follows:

(i) An applicant for the position of Fire Captain shall have at least seventy-eight (78) months of service as a First Class Firefighter, and achieved the following certification and education requirements:

1) NFPA Fire Officer I Certification that is either Pro-Board or IFSAC
2) Current Certification as an Emergency Medical Technician (EMT)
3) NIMS/ICS 300

(b) An applicant for the position of Assistant Fire Chief shall have at least two (2) years of experience as a Fire Captain and the following certification and education requirements:

i) NFPA Fire Officer II Certification that is either Pro-Board or IFSAC
ii) Haz-Mat Incident Commander
iii) Incident Safety Officer Certification
iv) NIMS/ICS 300
v) NIMS/ICS 400
vi) Current Certification as an Emergency Medical Technician (EMT)

(c) An applicant for the position of Fire Inspector shall have at least eight (8) years of experience as a firefighter and the following certification and education requirements:
i) NFPA Fire Officer II Certification that is either Pro-Board or IFSAC
ii) Fire Inspector I Certification
iii) Incident Safety Officer Certification
iv) Fire Instructor I Certification

(d) An applicant for the position of Deputy Fire Chief shall have at least five (5) years of experience at the rank of Captain or higher and the following certification and education requirements:
i) NFPA Fire Officer II Certification that is either Pro-Board or IFSAC
ii) Haz-Mat Incident Commander
iii) Incident Safety Officers
iv) NIMS/ICS 300
v) NIMS/ICS 400
vi) Current Certification as an Emergency Medical Technician

B. Discrimination.

The City of Altoona is an equal opportunity employer. It is the city council's and the board's policy to grant equal employment opportunities to qualified persons without regard to race, religion, color, national origin, gender, lesbian, gay, bisexual, transgender, age, veteran's status, marital status, or non-job related physical or mental handicap or disability. The city council and the board will provide equal opportunities in promotions.

C. Notification.

(1) For promotion to ranking position, at least two weeks prior to the close of the application period, posting of a notice outlining the qualifications for the position, and requesting application forms and/or "Letters of Intent," to apply for the position, shall be conspicuously posted in the fire department and the City Manager's Office. At the discretion of the civil service board, the board may receive documentation from the city of those eligible for a promotional exam and may notify them, in writing, of the notice and the deadline for filing applications. It is important that all applicants that meet the qualifications for promotion be notified, by the city manager or other individuals designated by the board.

(2) The city manager, or other designated person, shall give, in writing, to each applicant qualified for the next step in the examination process, a notice which shall include the date, time and place the applicant shall report for the next examination in the process.

(3) Every such notice shall be mailed or otherwise delivered at least seven (7) days prior to the date fixed for examination. Only applicants receiving notices to report for any examination shall be permitted to participate in such examination, and each applicant shall present his or her notice to the examiner before he or she shall be examined. Failure to report for an examination in accordance with the instructions contained in the written notice shall disqualify the applicant.

D. Rejection of Applicant.

The board may refuse to examine, or, if examined, may refuse to certify as eligible after examination, any promotional applicant who is found to lack any of the minimum qualifications for examination prescribed in these rules and regulations for the particular position for which the applicant has applied. In addition, the board may refuse to examine, or if examined, may refuse to certify any applicant who is:

(1) Found to have furnished incomplete, inaccurate, misleading or false information on the official application or in response to any portion of the hiring process,

(2) Physically unfit for the performance of the duties of the position of which the candidate seeks employment,

(3) Illegally using a controlled substance, as defined in Section 102 of the Controlled Substance Act (Public Law 91-513, 12 U.S.C. § 802),

(4) Found to have engaged in misconduct or violation of any law of this Commonwealth, ordinance of the city, or regulation of the department.

E. Hearing for Disqualified Applicants.

(1) Any Full-Time Firefighter ranking promotional applicant, except the Fire Chief, who believes that they are aggrieved by the actions of the board, in refusing to examine or to certify them as eligible after examination, may request a hearing before the board, within ten (10) days of receiving written notice of what is perceived as the alleged error. Within ten days after such request, the board shall designate a time and place for the hearing which shall be conducted pursuant to the procedures set forth in the Local Agency Law, 2 Pa. C.S. §101,

et seq., with or without counsel, at which time the board shall take testimony and review its refusal to provide examination or certification.

(2) The deliberations of the board, including interim rulings on evidentiary or procedural issues, may be held in the nature of a closed executive session. The board's disposition of the matter shall constitute official action which shall occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings). The decision of the board shall be final.

§44-14. EXAMINATION AND GRADING PROCEDURE

A. General Examination Requirements.

The examination for a Full-Time Firefighter ranking promotional position (Captain, Assistant Fire Chief, Fire Inspector or Deputy Fire Chief) shall include a written examination, an oral examination, and an appraisal of promotional potential, which will be graded on a one hundred (100) point scale with the written examination representing fifty percent (50%) of the final score, the oral examination representing thirty percent (30%) of the final score, and the appraisal of promotional potential representing twenty percent (20%) of the final score.

B. Written Examination.

The written examination shall be graded on a one hundred (100) point scale. An applicant must score at least seventy percent (70%) to be eligible for the oral exam and continue in the promotional process. Applicants who score less than seventy percent (70%) shall be disqualified. Within thirty (30) days after the administration of the written examination, all applicants shall be given written notice of their examination results.

C. Oral Examination.

(1) Every applicant for promotion who has satisfied all of the written examination requirements provided in *Section 44-14B* above, shall be given an oral examination. An applicant must score at least seventy percent (70%) to qualify and continue in the promotion process. Any applicant who scores less than seventy percent (70%) will be disqualified.

(2) The oral examination shall involve questioning applicants on firefighting oriented issues, including how they would handle situations relevant to firefighter work. Within thirty (30) days after the administration of the oral they shall be informed of the score in their oral examination and total overall score.

§44-15. APPRAISAL OF PROMOTIONAL POTENTIAL

A. Appraisal by Fire Chief

(1) Every applicant for promotion who has satisfied all of the written and oral examination requirements as provided in *Sections 44-14B and 44-14C* above shall be evaluated for promotion by the Fire Chief. The Fire Chief shall complete an Appraisal of Promotional Potential Form, which shall be based on ten (10) merit-based factors which include:

(a) Adaptability;
(b) Quality and Timeliness of Work;
(c) Safety Awareness;
(d) Quantity of Work;
(e) Cooperation with Co-Workers;
(f) Firefighting and Emergency Response – Quality of Work;
(g) Self-Motivation/Initiative;
(h) Knowledge of the Job and Equipment;

(i) Relationship with the Public; and
(j) Dependability/Punctuality

(2) Each of these factors shall be evaluated on a scale of one (1) to five (5), with five (5) being the highest score for a total possible score of fifty (50) points.

(3) The Fire Chief shall forward to the board a completed Appraisal of Promotional Potential Form within thirty (30) days of the Fire Chief having been requested to complete the Form by the City Manager. Following receipt by the board of the Appraisal of Promotional Potential Form, the board shall calculate the percentage attained on the Appraisal of Promotional Potential Form by dividing the number of points scored by the total possible score of fifty (50) (e.g. 35/50 equals 70%). The applicants' score shall then be weighted pursuant to *Section 44-14A* above to calculate the applicants' final, overall score. All applicants shall be given written notice of their Appraisal of Promotional potential scores.

§44-16.CERTIFICATION OF THE LIST OF ELIGIBLES AND APPOINTMENT

A. Creation of Eligibility List.

(1) At the completion of the examination requirements set forth in *Sections 44-14A, 44-14B, 44-14C and 44-15A* the board shall rank all passing applicants on a list with the applicant receiving the highest score at the top of the list and the applicant receiving the lowest passing score at the bottom of the list.

(2) In the case of tied scores, the tie will be broken by giving preference to the applicant's first "Date of Hire."

B. Duration of Eligibility List.

The board shall furnish to council a certified copy of the eligibility list so prepared and kept. The eligibility list shall be maintained for a period of two (2) years or until a new list is certified to council, whichever occurs first and are public records.

C. Appointment Procedure.

(1) All promotional ranking positions in the fire department, except the Fire Chief shall be filled only in the following manner:

a) The board, after having established an eligibility list, furnish to the city manager, a copy of the eligibility list for all promotion ranking positions that shall have included only those that have passed all of the components of the testing processes as outlined above.

b) When a vacancy for any promotional ranking position is to be filled, the city manager shall notify the civil service board of a civil service vacancy promotional position and request the names of the top three candidates on the eligibility of the respective promotional list (Certified List of Three.)

c) The board shall then certify the top three candidates on the respective promotional ranking list that have received the highest average in the last preceding promotional exam held within the period of two years preceding the date of the request for the eligibility list.

d) If three (3) names are not available, then the board shall certify the name(s) remaining on the list.

e) The city manager shall make an appointment from one of the three names certified with sole reference to the merits and fitness of the candidates.

f) At the time of appointment of a promotional ranking position, the city manager shall advise the mayor and city council of such appointment.

g) The name of the candidate appointed shall be immediately stricken from the "Certified List of Three" or a lesser number if three names are not on the certified list. The names of the non-appointed candidates shall then immediately be restored to their proper place on the certified list and an additional candidate, with the highest score on the eligibility list, shall be elevated to the "Certified List of Three," if qualified names remain on the eligibility list.

D. Probationary Period.

(1) Every successful applicant for the promotion to any ranking position, except that of the Fire Chief, within the fire department, shall serve a twelve (12) month probationary period. The probationary period will begin on the first day of the promotion to the respective ranking position.

(2) Every successful applicant for the promotion to any ranking position, except that of the Fire Chief, during probation, may be disciplined or discharged, depending on the severity of the violation, or returned to the position from which they were promoted, for cause for the reasons set forth in *Section 44-13D,* of these rules and regulations or because of incapacity for duty due to the use of alcohol or drugs.

(3) In addition, any probationary ranking firefighter, except the Fire Chief, may be returned to their previous position, if the probationary ranking firefighter does not meet the requirement expectations of the position and documentation is accurately noted.

(4) The Fire Chief shall submit to the city manager a final probationary report, not less than ten (10) days immediately preceding the end of the probationary period. Each report shall be submitted in writing to the City Manager. Within five (5) calendar days after receiving a probationary report from the Fire Chief, if the conduct of the probationer has not been satisfactory to the city manager the probationer shall be notified in writing by the city manager that the appointment will not be permanent and the promoted probationary ranking Full-Time Firefighter will be returned to the previous position held for the city.

(5) Any probationer who is notified in writing by the City Manager, prior to completion of the twelve month probationary period, that their appointment will not be made permanent, has no rights of appeal under these rules and regulations.

(6) The city manager shall notify the board, in writing, of its decision to retain or remove the probationer of such decision within five (5) calendar days and in no event beyond the last day of the probationary period.

(7) At the end of the twelve (12) month probationary period, if the probationer is not notified in accordance with this Chapter, the promoted ranking firefighter shall receive permanent status in their respective promotional position.

E. APPOINTMENT OF FIRE CHIEF

The Fire Chief shall be appointed by the city manager from within the ranks and may be demoted without cause in the same manner, but not to any rank lower than the rank which was held at the time of designation as Fire Chief. In the event that no qualified officer from within the ranks has applied for such designation, the Fire Chief shall be designated by the city manager, from without the ranks.

§44-17. SUSPENSIONS, REMOVALS AND REDUCTION IN RANK–FURLOUGHS

A. Grounds for Disciplinary Action.

(1) Any firefighter subject to the civil service provisions herein, shall be subject to suspension, discharge and discipline, by the city manager, for misconduct or violation of any law of the Commonwealth, ordinance of the city, or regulations of the department.

(2) No firefighter, including Fire Chief, shall be discriminated against by being removed, censured or reprimanded for any religious, racial or political reasons, or any other basis prohibited by law.

B. Hearings on Suspension, Removal or Reduction in Rank.

(1) Any firefighter aggrieved by the suspension, discharge or discipline imposed by the city manager, more serious than a suspension of three days without pay, may request a hearing before the city council.

(2) At the hearing, the firefighter may be represented by counsel.

C. Appeal Process.

(1) Any firefighter aggrieved by the decision of the council or the civil service board shall have the right to appeal in accordance with 2 Pa.C.S. Ch 7 Subch. B (relating to judicial review of local agency action).

(2) This review shall be exclusive.

(3) Where no such appeal is taken within the time prescribed by law, the decision of the city council or the civil service board shall become final in accordance with the law.

(4) The issue before the court shall be whether the action of the council or the civil service board shall be affirmed or modified in any respect or whether the charges should be dismissed or whether the suspension or demotion made by the city manager shall be affirmed or rescinded. Where a firefighter has been suspended and the charges are dismissed or the suspension rescinded on appeal, the firefighter shall receive full compensation for the entire period of suspension.

D. Election of Remedies.

Where a firefighter, who is a member of the bargaining unit, is subject to suspension, discharge or discipline, the firefighter shall have the option of challenging the suspensions, discharge or discipline imposed, by selecting the due process procedure outlined above or by a proceeding with grievance arbitration as outlined in the Collective Bargaining Agreement. A choice to proceed either by the due process outlined above or by grievance arbitration shall foreclose the opportunity to proceed in the alternative method.

E. Furloughs.

(1) If it should become necessary to reduce the number of firefighters in the fire department for purposes of economy, seniority rights shall prevail, and any and all removals for such cause or causes shall be from the members last appointed, and the member or members serving the shortest time shall be removed first; but members with longer times of service may be discharged for cause.

(2) In the event that the city council decides to increase the size of the fire department personnel, the furloughed firefighters shall be reinstated in order of their seniority in the fire

department. Firefighters so notified of reinstatement must accept reinstatement within thirty (30) days of receipt of such notice, otherwise such firefighter shall be deemed to have waived any right to reinstatement.

(3) In addition, those furloughed firefighters reinstated, as outlined above, must be in compliance, or become compliant with the qualification requirements outlined in these civil service rules and regulations.

SECTION 2 AMENDMENT AND RESTATEMENT/REPEAL.

Any prior enactment imposing the same or similar requirements is amended and restated in its entirety to read as stated in this Ordinance. Any other prior ordinance or part of any prior ordinance conflicting with the provisions of this Ordinance is rescinded insofar as the conflict exists. To the extent the same as any enactment in force immediately prior to adoption of this Ordinance, the provisions of this Ordinance are intended as a continuation of such prior enactment and not as a new enactment. If this Ordinance is declared invalid, any prior enactment levying a similar requirement shall remain in full force and effect and shall not be affected by adoption of this Ordinance. If any part of this Ordinance is declared invalid, the similar part of any prior enactment imposing similar requirements shall remain in effect and shall not be affected by adoption of this Ordinance The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish offense under the authority of any enactment in force prior to adoption of this Ordinance. Subject to the foregoing provisions of this Section, this Ordinance shall amend and restate on the effective date any enactment imposing the same or similar requirements in force immediately prior to the effective date.

SECTION 3. EFFECTIVE DATE.

This Ordinance shall become effective upon the earliest date provided by law.

ORDAINED AND ENACTED as an Ordinance of the City of Altoona this 5th day of December, 2018.

ATTEST: **CITY OF ALTOONA**

Linda Rickens Schellhammer, City Clerk

Matthew Pacifico, Mayor