

# COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2021 - 20

By Leon Dozier Sponsored By Mayor Cyril M. Kleem

## AN ORDINANCE

**REPEALING AND REPLACING SECTIONS 135.09, 135.11 AND 135.13 OF TITLE V, CHAPTER 135 - CIVIL SERVICE COMMISSION, TO ALLOW FOR LATERAL TRANSFERS OF POLICE OFFICERS TO THE CITY OF BEREA, OHIO FROM OTHER OHIO JURISDICTIONS, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the number of applicants for public safety jobs across the United States have steadily declined; and

**WHEREAS**, the City of Berea has also experienced a substantial decline in the number of applicants taking written civil service examinations for entry-level positions in the Division of Police; and

**WHEREAS**, the City desires to encourage and promote diversity in the Police Department; and

**WHEREAS**, this Council desires to make provisions for hiring experienced Police Officers in order to provide for the continued efficient, effective and adequate operation of the Division of Police; and

**WHEREAS**, by hiring experienced public safety employees, the City can reduce the extensive training time required before a new hire is able to be fully functional as a police officer; and

**WHEREAS**, because of retirements and probable reassignments in the Division of Police, the City may need to immediately hire one or more patrol officers in order to maintain adequate staffing levels.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Berea, State of Ohio:

**SECTION 1.** That Sections 135.09, 135.11 and 135.13, attached hereto as "Exhibit A" and incorporated herein by reference, shall be expressly repealed and replaced with new Sections 135.09, 135.11 and 135.13, attached hereto as "Exhibit B" and incorporated herein by reference.

**SECTION 2.** That subject to appropriations, the Mayor is authorized to hire one entry-level police officer from an eligible lateral transfer list, developed in accordance with new Sections 135.09, 135.11 and 135.13, notwithstanding the fact that the Civil Service Rules have not yet been revised to conform to this legislation.

**SECTION 3.** That the Civil Service Commission is directed to adopt and promulgate new rules to allow for the Lateral Transfer of Police Officers consistent with Chapter 135 of the Codified Ordinances of the City of Berea.

**SECTION 4.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

**SECTION 5.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department and for the further reason that it is immediately necessary to make such provisions in order to provide adequate staffing and operation in the Division of Police. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

# COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2021-20

By Dozier Sponsored By Mayor Kleem

PASSED: May 3, 2021

[Signature]  
President of Council

ATTEST: [Signature]  
Clerk of Council

APPROVED: May 4, 2021  
[Signature]  
Mayor

Approved as to Form:

[Signature]  
Director of Law

## EXHIBIT A

### 135.09 EXAMINATIONS.

(a) Administration of Examination. Examinations shall be held at such places as the Commission deems advisable. The Commission shall determine if an applicant meets the requirements for appointment to the classified service of the City by arranging for examinations designed to measure such requirements. Examinations shall be administered at any time prior to appointment to any position of employment.

(b) Notice of Examination.

(1) Entrance examination. Notice of competitive entrance examinations shall be given through at least one publication in three individual newspapers of general circulation in the County of Cuyahoga, and by posting notices in such places as the Commission may deem advisable, not less than fifteen calendar days prior to any scheduled examination.

(2) Promotional examination. Notice in writing of competitive promotional examinations to be held shall be given by U.S. Certified Mail to all employees who may be eligible for such promotion, and in such other and additional manner as the Commission may deem advisable. Such notice shall be given not less than fifteen calendar days prior to the scheduled examination.

(c) Scope of Examination. The subjects of examination may include matters relating to the duties of a particular position, intelligence test, personality or psychological tests, medical examinations, tests of physical ability or agility, or any or all of the foregoing, and such subjects may be examined by means of a written test, an oral test, a physical performance, an ocular demonstration, or any or all of the same, according to the decision of the Commission.

No educational requirement shall be imposed, and no test shall be designed to determine any educational level, except for such general education as may be related to the work of the position for which the test is to be given.

(d) Grading of Examinations.

(1) Each written examination shall be rated on a scale of 100 where 100 represents the highest possible attainment, and seventy represents the minimum acceptable attainment.

(2) In examinations composed of a written part and a physical agility part, the method of scoring the written part shall be as in (1) above, and the method of scoring the physical agility part shall be in such manner as may be prescribed by the Commission.

(e) Special Credit. No additional credit, such as may have been given previously for military service, seniority, efficiency or any other reason shall be granted so as to artificially increase the grade on any examination with the exception that:

(1) Any applicant for an original appointment who has attained a passing grade on the written entrance examination, and who has completed one year or longer in the service of the Armed Forces of the United States of America and has been honorably discharged therefrom, shall be given a credit of two percent (2%) of the basic score attained on such entrance examination, the credit to be added to the basic score in order to obtain the final grade upon such entrance examination; and

(2) Any applicant for a promotional appointment who has attained a passing grade on the written promotional examination, shall be given a credit of one percent (1%) of the basic score attained on such promotional examination for each of the first four years of full-time service with the City immediately preceding such promotional examination, and six-tenths percent (.6%) of the basic score attained on such promotional examination for each of the next ten years of full-time service with the City immediately preceding the first four years of service, as above, the credit to be added to the basic score in order to obtain the final grade upon such promotional examination.

(f) Physical, Psychological and Psychiatric Examinations.

(1) The Commission may establish standards and requirements for physical and mental fitness necessary to perform positions of employment.

(2) The Commission may, as required, employ licensed professionals, and others, as consultants on all procedures, methods, examinations and policies relating to requirements for physical and mental fitness, as established in this chapter.

#### 135.11 ELIGIBLE CANDIDATE LISTS.

(a) Eligible Registers. The Commission shall prepare and keep open to public inspection an eligible candidate list of the persons who have been examined and who are eligible for appointment to employment with the City, provided that the Commission may include persons on the eligible candidate list without a final determination that such person meets and possesses the requirements of physical and mental fitness for appointment to any position, as may be established at some later time pursuant to Section 135.09 (f).

(b) Duration of Eligible Candidate List. The term of each eligible candidate list and of the eligibility of each of the persons named thereon shall be two years, provided however, that any eligible candidate list that has been in effect for more than one year may, at the discretion of the Commission, be terminated at any time that a subsequent eligible candidate list is certified.

(c) Cause for Removal from List. The Commission may remove the name of an eligible candidate from any Eligible List for any one or more of the following causes:

(1) After notice from the City, the failure to report or arrange for an interview with the appointing authority, within six days (Sundays and holidays excluded);

(2) The failure to respond to a notice of appointment, or accept appointment, within the time limit set forth in such notice;

(3) The declination of appointment.

#### 135.13 CERTIFICATION.

(a) Filling of Vacancies. The Commission shall certify to the appointing authority the names and addresses of the ten persons ranking highest on the eligible candidate list for the position to be filled, or the names and addresses of the highest ranking twenty-five percent (25%) of persons on the eligible candidate list, whichever is the greater number.

(b) Objections to Certification. An appointment authority may submit written objections to the Commission objecting to the certification of any eligible candidate and setting forth specific reason therefor. Such objection must be based on just cause, and the person against whom the objection is made shall be notified, and within five days after the date of such notice may submit a written response to be heard by the Commission. If the objection is sustained by the Commission, the next highest name on the eligible candidate list shall be certified to the appointing authority, and notice of withdrawal of certification shall be sent to the person against whom the objection was sustained.

(c) A person certified from the same eligible list to the appointment authority and passed over five times shall be removed from the Eligible List.

(Ord. 2014-59. Passed 6-16-14.)

## EXHIBIT B

### 135.09 Civil Service Examinations - Lateral Transfers

(a) Ascertainment of merit and fitness for appointment, lateral transfers and promotions. The Commission shall provide by rule for ascertainment of merit and fitness as the basis for appointment and promotion in the classified service of the City, as required by the Constitution of the State of Ohio

(1) The Commission shall determine if an applicant meets the requirements for original appointment or promotion to the classified service of the City by arranging for examinations designed to measure such requirements. Examinations shall be administered at any time prior to appointment to any position of employment.

(2) Ascertainment of fitness and merit for appointment to the Division of Police

There shall be two methods for determining the merit and fitness of a candidate for an original appointment to the position of Patrol Officer in the Division of Police.

a. Civil service examinations, as determined by the Commission, shall be used to establish an eligibility list.

b. Lateral entries to the Division of Police as a Patrol Officer are exempt from written civil service examinations. The Commission shall determine the merit and fitness of the candidate through an oral interview, and any other tests, including, but not limited to a physical agility test, physical examination, psychological test, polygraph and/or voice test analysis.

(b) Scope of Examinations

(1) Scope of Examinations - Entry-level and promotional examinations may be written, oral, physical, a demonstration of skill, or an evaluation of training and experiences and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position for which appointment is sought. Tests may include structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, psychological tests, psychiatric tests, tests of physical abilities or agility, medical examinations, pre-employment drug testing and any other acceptable testing methods, as determined by the Commission.

(2) No educational requirement shall be imposed, and no test shall be designed to determine any educational level, except for such general education as may be related to the work of the position for which the test is to be given.

(c) Notice of Examinations and Opportunities for Lateral Transfers

(1) Entrance examinations and Opportunities for Lateral Transfers

Notice of competitive entrance examinations shall be given through at least one publication of general circulation in the County of Cuyahoga, and by posting a notice on the City's

website, on the City's social media accounts, and in such other places as the Commission may deem advisable, not less than fifteen calendar days prior to any scheduled examination

(2) Promotional examinations.

a) If each eligible employee has a City email address, the notice of a competitive promotional examination shall be provided through the employee's City email account. In addition, notice shall also be sent by regular mail to the employee's home using the address on file in the Payroll Office. Such notice shall be given not less than fifteen calendar days prior to the scheduled examination.

b) If each eligible employee does not have a City email address, the notice of a competitive promotional examination shall be provided by regular mail to the employee's home using the address on file in the Payroll Office. In addition, written notice shall be posted in a prominent place in the workplace of each eligible employee. Such notice shall be given not less than fifteen calendar days prior to the scheduled examination.

(d) Grading of Examinations

(1) Written examinations and assessment centers shall be rated on a scale of 100, where 100 represents the highest possible attainment and 70 represent the minimum acceptable attainment.

(2) Physical agility tests shall be rated as pass or fail.

(3) Other types of examination shall be rated in such a way as may be prescribed by the Commission.

(e) Special Credit

No additional credit, such as may have been given previously for military service, seniority, efficiency or any other reason shall be granted so as to artificially increase the grade on any examination with the exception that:

(1) Except in cases of lateral transfers, any applicant for an original appointment who has attained a passing grade on the written entrance examination, and who has completed one year or longer in the service of the Armed Forces of the United States of America and has been honorably discharged therefrom, shall be given a credit of two percent (2%) of the basic score attained on such entrance examination, the credit to be added to the basic score in order to obtain the final grade upon such entrance examination; and

(2) Any applicant for a promotional appointment who has attained a passing grade on the written promotional examination, shall be given a credit of one percent (1%) of the basic score attained on such promotional examination for each of the first four years of full-time service with the City immediately preceding such promotional examination, and six-tenths percent (.6%) of the basic score attained on such promotional examination for each of the next ten years of full-time service with the City immediately preceding the first four

years of service, as above, the credit to be added to the basic score in order to obtain the final grade upon such promotional examination.

(f) Physical, Psychological and Psychiatric Examinations

(1) The Commission may establish standards and requirements for physical and mental fitness necessary to perform positions of employment.

(2) The Commission may, as required, employ licensed professionals, and others, as consultants on all procedures, methods, examinations and policies relating to requirements for physical and mental fitness, as established in this Chapter.

**135.11 Eligible Candidate Lists**

(a) Eligible Candidate List - The Commission shall prepare and keep open to public inspection an eligible candidate list of the persons who have been examined and attained a score of at least 70% and are otherwise apparently eligible for appointment to employment with the City, provided that the Commission may include persons on the eligible candidates list without a final determination that such person meets and possesses the requirements of physical and mental fitness for appointment to any position, as may be established at some time later.

(b) Eligible Candidate List – Lateral Transfer Candidates in the Divisions of Police

The Commission shall prepare and keep open to public inspection a list of candidates eligible for lateral transfer. Candidates for lateral transfers for entry-level positions in the Division of Police may be placed on an Eligible Lateral Transfer Candidate List upon meeting the following requirements:

(1) No person shall be eligible for a lateral transfer to the Divisions of Police before their twenty-first birthday or on and after the person's forty-second birthday.

(2) The person must be currently working or have worked within the past twelve months, as either a full-time (minimum 30 hours per week) OPOTA-certified Ohio Peace Officer in a jurisdiction in the State of Ohio as defined in Section 109.71 of the Ohio Revised Code (the definition of jurisdiction shall include full-service college or university police department established pursuant to Ohio Revised Code 3345, as well as service as a commissioned officer with a hospital police department). All certifications must be current as of the date of hire.

(3) Must have successfully completed the probation period at the current or most recent place of employment.

(4) An applicant will not be placed on the lateral transfer list if they are leaving their current employer or left a prior employer for disciplinary reasons or to avoid disciplinary action.

(5) The applicant's current or previous employment as an Ohio peace officer must have been as a result of a competitive examination process.



(6) Before being placed on the Eligible Lateral Transfer Candidate List, each applicant shall submit to an oral interview before a panel consisting of the Director of Public Safety, the Chief of Police and two members of the Civil Service Commission. In the oral interview, the panel may consider the following factors, among other job-related factors, deemed appropriate by the panel:

- a) The reason the applicant has been separated from the applicant's former employers or why the candidate wishes to leave the applicant's current employer.
- b) The type of agency or entity that employed the applicant in the past.
- c) Any additional certifications obtained by the applicant.
- d) The results of any background check.
- e) Any other job-related factors the panel deems appropriate.

If three of the four members of the panel determines that the applicant meets the criteria for placement on the Eligible Lateral Transfer Candidate List and the applicant successfully completes the oral interview process, the panel shall place the applicant on the list, and forward the list to the Civil Service Commission. Candidates placed on the Eligible Lateral Transfer Candidate List shall not be ranked.

(c) Duration of the Eligible Candidates Lists – The Eligible Candidate Lists shall be valid for two years, provided however, that any list that has been in effect for at least one year may, at the discretion of the Commission, be terminated at any time that a subsequent eligible candidate list is certified.

### **135.13 Certification**

(a) Filling of Vacancies – When a vacancy occurs in the classified service, the appointing authority shall request that the Commission certify names from the eligible candidates list, or in the case of vacancies in the Divisions of Police and Fire, the appointing authority shall request that names be certified either from the eligible candidates list or the eligible lateral transfer candidate list.

(1) If certifying from an eligible candidate list, the Commission shall certify the names and addresses of the ten persons ranking highest on the eligible candidate list for the position to be filled, or the names and address of the highest-ranking twenty-five percent (25%) of persons on the eligible candidate list, whichever is the greater number.

(2) If certifying from an eligible lateral transfer candidate list, the Commission shall certify the names and address of all candidates on the list. No more than two hires from the certified list of eligible lateral transfer candidate list may be made without at least one hire from the certified list of candidates from the eligible candidate list.

(b) Objections to Certification – An appointing authority may submit written objections to the Commission objecting to the certification of any eligible candidate and setting forth specific reason therefor. Such objections must be based on just cause, and the person against whom the objection is made shall be notified using the email address on file with the Commission. Within five days after

the date of such notice, the candidate may submit a written response to be heard by the Commission. If the objection is sustained by the Commission, the next highest name on the eligible candidate list shall be certified to the appointing authority, and notice of withdrawal of certification shall be sent to the person against whom the objection was sustained.

(c) Additional Causes for Removal from both the Eligible and Certified Lists

- (1) Six days (Sundays and holidays excluded) after notice from the City, using the email address on file with the Commission, the candidate fails to report or arrange for an interview.
- (2) The failure to respond to a notice of conditional appointment or accept appointment, within the time limit set forth in such notice, sent to the candidate using the email address on file with the Commission.
- (3) Declining a conditional appointment or appointment
- (4) A candidate passed over five times shall be removed.