

CIVIL SERVICE RULES

CITY OF MONROE

Ordinance #: 025/2005

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1. GENERAL PROVISIONS

1. AUTHORITY AND APPLICATION. These rules are promulgated pursuant to the authority granted by the City of Monroe and by RCW Chapter 41.12.

1.03 SCOPE AND PURPOSE. These rules govern the continuing administration of the Civil Service System of the Monroe Police Department. The purpose of these rules is to assure that the Civil Service System is administered in accordance with the codes and ordinances of the City of Monroe, and that all proceedings before the Commission are conducted in an orderly, fair and timely manner.

1.05 POSITIONS EXCLUDED. The following positions are exempt from Civil Service: Administrative Assistant to the Chief, Administrative Commander, Operations Commander and one position yet to be determined by the Chief of Police in accordance with RCW 41.12.050.

07 PRESUMPTION OF VALIDITY. The Civil Service System implemented by these rules substantially accomplishes the purpose of RCW 41.12. Variation from state models are based on local conditions and are intended to maintain the purposes of civil service systems: merit selection, tenure, and an independent civil service commission. These rules are presumed to be valid and shall be upheld unless in direct conflict with the Collective Bargaining Agreement between the City of Monroe and the Guild (police officers), Teamsters 763 (clerical, Sergeants) and any non-represented police employees.

1.09 SEVERABILITY. If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end, any section or word is declared to be severable.

2. ADMINISTRATION AND OPERATIONS

- 2.01 **COMMISSION--MEETINGS--QUORUM.** In the necessary conduct of its work, the Commission shall meet on the third Monday of each month, at 4:30 p.m. at Monroe City Hall, 806 West Main Street, Monroe, unless there is no pending business requiring Commission action. Notice of special meetings shall be provided as required by the Open Public Meetings Act (Chapter 42.30 RCW, as amended). The Commission shall conduct hearings as required. Notice of hearings shall be provided as required by these rules. Two members of the Commission shall constitute a quorum. No action of the Commission shall be effective unless two members concur therein. All Commission meetings or hearings, regular or as required, shall be open and public provided, however, that the Commission may meet in executive session as authorized by the Open Public Meetings Act (Chapter 42.30 RCW, as amended).
- 2.03 **CHAIR--VICE CHAIR.** At the first regular meeting in January of each year, the Commission shall elect one of its members as Chair and another member to serve as Vice Chair for a term of one year. Should a Chair and/or Vice Chair resign or be removed from the position prior to the expiration of his/her term, the Commission, upon appointment of a new member, shall proceed to the election of a new Chair and/or Vice Chair.
- 2.05 **RULES OF ORDER.** Robert's Rules of Order shall be final authority on all questions of procedure and parliamentary law not otherwise provided by these rules. However, with the concurrence of two commissioners such rules may be waived or modified.
- 2.07 **COMMISSIONERS--CHALLENGE.** Any challenge to a Commissioner's sitting at a hearing shall be made by an interested party prior to the commencement of a hearing. The challenged Commissioner(s) shall review and rule on the challenge prior to proceeding with the hearing. Failure to timely raise a challenge shall constitute a waiver of the challenge by the party unless, in the exercise of reasonable diligence, a basis for challenge is unknown by a party prior to commencement of a hearing.
- 2.08 **COMMISSIONERS--CHALLENGE--NECESSITY.** If, as a result of disqualification(s) pursuant to Rule 2.07, there is no longer a lawfully constituted quorum available, then by reason of necessity, the disqualified Commissioner(s) shall return and proceed with the hearing.
- 2.09 **OFFICE HOURS.** The office address of the Civil Service Commission is 806 West Main Street, Monroe, WA 98272-2198. The regular office hours of the Commission shall be 8:00 a.m. to 5:00 p.m., Monday through Friday.

- 2.11 PUBLIC RECORDS. Public records of the Commission shall be available for inspection and copying during the regular office hours of the Commission staff. No fee will be charged for inspection of public records. Inspection will be permitted during office hours in a space provided by the Commission staff, and under its supervision, and must be accomplished without excessive interference with the essential functions of the Commission. Copies will be made available at actual cost or as provided by City ordinance. These rules shall be printed for free public distribution.
- 2.13 RECORD OF PROCEEDINGS. The Commission shall keep a record of its proceedings. The record of the Commission shall not include a written verbatim report of proceedings unless ordered. The Commission may retain a court reporter to record all or part of a proceeding. In addition, a party to a proceeding, at his/her own expense, may have a court reporter record all or part of a proceeding. On appeal or review, costs of transcription may be recovered by the Commission, or a prevailing party, at the discretion of the reviewing court or the Commission. Upon appeal or review, transcription and certification of a record of proceedings shall be arranged by the Secretary.
- 2.15 REPORTS--APPLICANTS, ELIGIBLES, EMPLOYEES.
- 2.15.01 Each applicant, eligible and employee shall keep the Commission informed, by written notice to the Secretary, of current address and telephone number, and shall report any change of name through marriage or otherwise.
- 2.15.02 Each eligible shall keep the Secretary informed, in writing, regarding availability and any refusal to accept appointment or promotion and the reasons therefor.
- 2.17 REPORTS--APPOINTING AUTHORITY. The Appointing Authority shall in a timely manner report to the Civil Service Commission by filing with the Secretary/Chief Examiner in writing:
- 2.17.01 Every appointment, transfer, promotion, demotion, reduction, layoff, reinstatement, suspension, leave of absence without pay, return to duty, assignment, change of position within a class or within an assignment title, change of title, change of compensation;
- 2.17.02 Every separation from the service with the reasons therefor;
- 2.17.03 Every refusal or failure to accept appointment by a person whose name has been certified.

3. SECRETARY/CHIEF EXAMINER

3.01 SECRETARY-CHIEF EXAMINER—APPOINTMENT. A Secretary/Chief Examiner may be appointed by the Commission.

3.03 The Secretary/Chief Examiner may be appointed as the Commission may decide. The Commission may, but is not obligated to, appoint the City's Human Resources Manager as its Secretary/Chief Examiner.

3.05 SECRETARY/CHIEF EXAMINER—DISCIPLINE. The Secretary/Chief Examiner may be subject to change at the will of the Commission.

3.07 AUTHORITY. The Secretary/Chief Examiner shall be designated by the Commissioners as the general manager and executive officer of the Civil Service Commission, responsible to the Commission, and shall direct the administrative activities of the Civil Service Commission.

3.07.01 CHIEF EXAMINER – DUTIES

- (a) Delegate duties where necessary and supervise the preparation, conduct, and scoring of examinations, and maintenance of the classification plan;
- (b) Report to the Commission from time to time as directed concerning the details of the work of the Commission;
- (c) Prepare the budget for the Commission, with the Secretary, approve accounts, and administer generally the expenditure of funds appropriated for the operation of the Department;
- (d) Classify all Civil Service positions in the classified service, maintain a schematic list of all such classes in the classification plan, and prepare and maintain specifications for each class;
- (e) Determine which examinations shall be conducted, when they shall be conducted, the minimum qualification of applicants, the subjects to be covered in each examination, methods of testing, and the relative weights to be given to the various parts of the examination; supervise the conduct of the examinations, appointing such experts, special examiners, and other persons he or she may deem necessary; decide all questions relating to the eligibility of applicants, the admissibility of applicants to the examinations, extension of time and all questions arising during the course of an examination; prepare and submit a report prior to and after each examination to the Commission, together with a report on all appeals from rulings or appeals from any part of the examination. (See Rule 8.01, "Ordering Examinations.")

- (f) Perform all other functions necessary for the proper carrying-out of these rules and the provisions of law relating to the Civil Service System, and such additional duties as may be assigned from time to time by the Commission.

3.07.02 SECRETARY – DUTIES

- (a) Be the general manager and executive officer of the Civil Service Commission, and with the Chief Examiner, be responsible to the Commission;
- (b) Prepare the budget for the Commission, with the Chief Examiner, approve accounts, and administer generally the expenditure of funds appropriated for the operation of the Department;
- (c) Prepare all meeting notices and agendas for the Commission, attend and record meetings, including minutes, maintain Commission records, prepare correspondence, and participate in other projects as directed by the Commission.

3.09 REVIEW OF AND APPEAL FROM ACTIONS OR DECISIONS OF THE SECRETARY/CHIEF EXAMINER.

3.09.01 The Commission on its own motion may review or modify any action or decision of the Secretary/Chief Examiner.

3.09.02 Any person adversely affected by any action or decision of the Secretary/Chief Examiner may request the Commission to revise or modify such action or decision. Such request shall be in writing setting forth with reasonable certainty the action objected to, the grounds supporting the request, and the relief sought, and must be made within ten (10) days from the date of notice of such action unless established otherwise in these rules. The Commission shall thereupon, if in its opinion good cause is shown, conduct a hearing thereon.

4. DEFINITIONS

The following words and phrases shall have the meanings hereinafter described unless the context in which they are included clearly indicates otherwise.

- 4.01 ACTUAL SERVICE. Time in which a given employee has been engaged under Civil Service appointment in the performance of the duties of a position or positions and shall include absences with pay.
- 4.03 ALLOCATION. The locating or placing in the classified service of a position in the class appropriate to it on the basis of duties and responsibilities and required qualifications of such position.
- 4.05 APPLICANT. Anyone who has filed an application to take a Civil Service examination.
- 4.07 APPOINTING AUTHORITY. The person or persons authorized to hire, promote or discharge employees. A person who is authorized by the Mayor to make final decisions to employ, discipline, discharge others on behalf of the City, which means the Chief of Police with respect to any Police Department position included in this system.
- 4.09
- 4.09.01 APPOINTMENT -- REGULAR. The appointment of a certified eligible.
- 4.09.02 APPOINTMENT -- PROVISIONAL. A limited appointment of (a) certified person to a classified position which is not vacant, but is currently unfilled due to an authorized leave of absence; or (b) a non-certified person to a classified position for which there is no current eligible register.
- 4.09.03 APPOINTMENT -- TEMPORARY. A limited appointment other than from an eligible register for the purpose of performing work belonging in the classified service. A reduction of a regular employee is not a temporary appointment. Temporary appointment includes emergency appointment.
- 4.11 ASSIGNMENT. An employee may be assigned to a position which carries additional salary and additional limited responsibilities and is within the scope of the specification for the class from which assignment is made.
- 4.13 BREAK IN SERVICE. A separation from Civil Service status with a loss of accumulated service credit as occasioned by a "quit," "resignation," "discharge" or "retirement."
- 4.14 CALL. Written notification.

- 4.15 CANDIDATE. Any applicant who has completed, or is in the process of completing, a Civil Service examination.
- 4.16 CANVASS. Effort by the appointing authority to contact an eligible from the roster regarding possibility of employment.
- 4.17 CERTIFICATION. Applicants certified pursuant to a continuous testing process shall be placed on a Continuous Testing Initial Eligibility list. Certification shall be in accordance with the rules and regulations of this Commission. As each applicant is placed in accordance with his or her scores, veteran's points, ~~and reserve points~~ (if applicable) will determine the placement and all others on the list shall be adjusted.
- 4.19 CERTIFY. Verification to the appointing authority that a list of names of candidates for employment have been selected from the list of persons tested and found eligible for employment.
- 4.21 CITY. The City of Monroe, Washington.
- 4.23 CIVIL SERVICE EMPLOYEE. Any employee who has Civil Service status.
- 4.25 CIVIL SERVICE REGISTER. See Eligible Register.
- 4.26 CHIEF EXAMINER. Secretary/Chief Examiner as defined in Chapter 3. When the Commission has engaged a contractor to perform continuous or other testing, duties of the Secretary/Chief Examiner under these rules are or may be delegated, provided that the Subscription Testing Service shall adhere to the rules of the Commission.
- 4.27 CLASS. A position or group of positions designated by the Commission as having similarity in duties and responsibilities, by reason of which the same examination may be used for each position in the group.
- 4.29 CLASS SERIES. Two or more classes which are similar as to line of work but which differ as to degree of responsibility and difficulty and which have been arranged in a ladder of steps in a normal line of promotion, such as Police Officer, Police Sergeant, Police Lieutenant.
- 4.31 CLASS SPECIFICATION. A description of the essential characteristics of a class and the factors and conditions that separate it from other classes, written in terms of duties, responsibilities and qualifications.
- 4.33 COMMISSION. The Civil Service Commission.
- 4.35 CONTINUOUS SERVICE. Employment without interruption, except for absences on approved leave of absence to serve in the armed forces of the United States.
- 4.36 CONTINUOUS TESTING. A written examination and a standardized physical fitness/agility test conducted pursuant to set and commonly applied standards whose results shall be valid for a period of one calendar year from the date of certification to a Continuous Testing Initial Eligibility list. Continuous testing may, at the discretion of the Commission, be offered through the Secretary/Chief Examiner or pursuant to a subscription testing agreement.

- 4.39 DEMOTION. Removal of an employee, for cause, from a higher to a lower class of employment or salary step within a class.
- 4.41 DEPARTMENT. The Police Department of the City.
- 4.43 DISCHARGE. Termination, separation, dismissal, or removal from the service for cause.
- 4.45 ELIGIBLE. Anyone qualified for a given class through examination and placed on the proper eligible register; also, "Certified Eligible."
- 4.47 ELIGIBLE REGISTER. A register or list of successful examinees for a given class from which certification may be made to fill vacancies in such class; also, "Register of Eligibles."
- 4.49 EMPLOYEE. Anyone holding a position in the Civil Service System of the City of Monroe.
- 4.49.01 EMPLOYEE--REGULAR. Any employee who has been appointed from a certification and who has satisfactorily served the full probationary period.
- 4.49.03 EMPLOYEE--TEMPORARY. Any employee appointed to fill an emergency, temporary or short-term need, or to fill a position for which no register is available.
- 4.49.05 EMPLOYEE--EXEMPT. Any employee in a position of employment which is not subject to Civil Service rules and regulations, and in which one serves at the discretion of the appointing authority.
- 4.49.07 EMPLOYEE--PROBATIONARY. A person appointed from a certification who has not yet completed the specified probationary period of employment.
- 4.49.09 EMPLOYEE--PROVISIONAL. Any employee appointed provisionally to a position.
- Note: A regular employee is the only employee with rights under Rule 17-19.
- 4.51 EXAMINATION. The process of testing the fitness and qualifications of applicants for positions in a class.
- (a) EXAMINATION – OPEN (or ENTRY LEVEL). An examination open to any member of the public meeting the requirements as stated in the official bulletin announcing the examination.

- (b) **EXAMINATION--PROMOTIONAL.** An examination limited to employees meeting the requirements stated in the official bulletin announcing the examination.
- 4.53. **EXAMINATION BULLETIN (or OFFICIAL BULLETIN).** An examination bulletin containing basic information about the class of position, the requirements for filing, how to apply, and the other pertinent information. The examination bulletin shall be posted on official city bulletin boards and via e-mail.
- 4.55 **FINAL EXAMINATION SCORE.** Total of earned exam score plus additional veteran's preference for which an applicant is eligible.
- 4.56 **INCUMBENT.** A regular employee in any class.
- 4.57 **IN-HOUSE REGISTER.** A list of the names of civil service employees, in the order of final examination rating, who have passed an examination for an entrance position or class.
- 4.58 **LAYOFF.** The interruption of service and pay of any regular or temporary employee because of lack of work or funds, except that the term shall also apply to the separation of temporary employees who have completed the stipulated period of employment.
- 4.59 **OFFICIAL NEWSPAPER.** The newspaper designated as official by the City of Monroe, or as otherwise designated by the Commission.
- 4.59.1 **OFFICIAL BULLETIN BOARDS.** It is the responsibility of the Secretary/Chief Examiner to decide on the location(s) of all official bulletin boards. These bulletin boards will be labeled as such. At the minimum, the Secretary/Chief Examiner shall use the official bulletin boards of the City, which are located in the following locations:
- Public Works Lunchroom
 - WWTP Lunchroom
 - Police Department Back Entrance
 - City Hall copy area
- 4.60 **POLICE CORP.** Refers to the Washington State Police Corp project, its rules and regulations, and all associated concerns as appropriate.
- 4.61 **POLICE CORP ENTRY LEVEL.** A police officer employed within the guidelines of the Washington State Police Corp project.

- 4.63 POSITION. Any group of duties and responsibilities in the service of the City of Monroe which one person is required to perform as full or part-time employment, and which is included in the City budget.
- (a) POSITION – REGULAR. A full paid position included in the official annual budget that is neither specified as seasonal employment, nor limited for a period of less than the budget year; also any such position established during a given budget year, unless the Appointing Authority certifies to the Civil Service Commission that such position will not be continued in the succeeding year's budget.
- (b) POSITION – REGULAR PART-TIME. Employment in a regular position for work on a basis of less than eight hours a day or less than forty hours a week, but on a regular schedule. Part time personnel are not covered by civil service.
- 4.65 PROBATION OR PROBATIONARY. The status of an employee during an orientation period following a regular appointment from an eligible register. This orientation period is part of the examination process and is a working test during which an employee is required to demonstrate, by actual performance of the duties, fitness for the position to which certified and appointed.
- 4.67 PROMOTION. The appointment of an employee to a higher class or to a position of higher skill or responsibility level. Any change in employment other than by a temporary or provisional appointment (1) from a lower class to any position in any higher class in the same promotional series of classes as determined by the Commission, or (2) to a position which although an entrance position is of higher skill and/or responsibility, shall constitute a promotion.
- 4.69 QUIT. Any voluntary separation of an employee from City service without acceptance of a resignation by the appointing authority.
- 4.71 REALLOCATION. The allocation of a position to a different class in the Classification Plan.
- 4.73 REDUCTION. The removal of an employee from a higher class to a lower class of employment for reasons other than cause.
- 4.75 REGISTER. A list of candidates for employment who have passed an employment examination, whose names may be chosen and certified by the Commission for submission to the appointing authority for consideration for employment. See 4.47, "Eligible Register."
- 4.77 REINSTATEMENT. Reappointment of a regular employee to a position in a class in which the employee was a regular employee.
- 4.79 REINSTATEMENT REGISTER. A list of names of persons who were regular employees in a given class and who were laid off and are entitled to reinstatement in such class. A reinstatement register may also include former employees on disability retirement who are certified as fit for duty by the Appointing Authority.

- 4.81 RESIGNATION. A written request by an employee for separation from a class or from City service. Such request shall show written approval of the Appointing Authority to be effective.
- 4.83 RETENTION CREDIT. The employee's service credit in a given class or position and any higher position in a series or any other credit used by the Commission to determine order of lay-off.
- 4.85 RETIREMENT. The termination of employment for service or disability pursuant to applicable retirement laws.
- 4.86 SECONDARY ELIGIBILITY LIST. A list consisting of the top five (5) as determined by Civil Service Rules. This list includes the names of eligibles that have been forwarded by the Secretary/Chief Examiner to the hiring authority to start the background process.
- 4.87 SECRETARY. Secretary/Chief Examiner as defined in Chapter 3. The Secretary/Chief Examiner may be the Human Resources Manager responsible for Human Resources Generalist and/or Human Resources planning activities.
- 4.89 STANDING--REGULAR. The full Civil Service status of a regular employee.
- 4.90 SUBSCRIPTION TESTING SERVICE. A person or organization offering a service that tests and maintains list of candidates for employment who have successfully completed the Subscription Testing Service process.
- 4.91 SUSPENSION. Temporary removal of an employee from employment with or without pay, for cause, or pending determination of charges against the employee, which could result in demotion or discharge.
- 4.92 TEMPORARY APPOINTMENT. An appointment of a person for a fixed period of time (see bargaining contract or employee handbook for timeframe), for service on a special job or project, or to fill a vacancy during the absence of a full-time employee who is on leave of absence, or an employee filling a full-time position for which no eligible list exists pending the establishment of an eligible list.
- 4.93 VETERANS' PREFERENCE. Preference in examinations and employment, based on military service, as provided and defined by applicable laws.
- 4.95 WRITTEN NOTIFICATION. Any form of notice by or to the Commission, or request for action or hearing directed to the Commission, or the Commission's response to a request, provided in writing, in accordance with these rules and local and state statute.

5. RULE-MAKING

- 5.01 **AMENDMENTS OF RULES.** The Commission may amend these rules or adopt new rules by majority vote of the Commission at any regular or special meeting of the Commission. Unless upon emergency declared by all Commissioners present, amendment to these rules shall be first discussed in an open regular or special meeting at least one meeting prior to adoption. Upon declaration of emergency, a rule amendment may be adopted at the meeting at which the amendment is first proposed.
- 5.03 **EFFECTIVE DATE OF RULES.** All rules and amendments shall become effective immediately upon their adoption by the Commission, unless some later date is specified therein.
- 5.05 **COPIES OF RULES.** A copy of these rules and a copy of all subsequent rules or amendments shall be sent as soon as practicable after adoption to the Monroe City Clerk, and to the Appointing Authority. A copy shall be maintained in the office of the Commission for public inspection, and copies shall be available for free public distribution as required by state law.
- 5.07 **EFFECT OF RULES.** The terms and conditions of Civil Service employment are governed by these rules, and applicable statute and ordinance. No employee shall have a property interest in or as a result of these rules. These rules, and rules the Commission may enact, regulate the mode and appointment of tenure in the Civil Service, and employees are subject to these rules and amendments thereto.

6. CLASSIFICATION

6.01 CLASSIFICATION PLAN. A class specification shall be prepared and maintained by the Secretary/Chief Examiner for each class in the Civil Service System. Such specifications shall describe the class generally, distinguish it from other classes, give examples of typical duties of the class, and contain, when applicable, a statement of those qualifications for applicants for positions in the class not otherwise provided in these rules.

6.03 ADMINISTRATION OF POSITION CLASSIFICATION. The Chief Examiner and/or Secretary may make, or cause to be made, position classification studies of individual positions or groups of positions (a) whenever it is deemed necessary; (b) whenever the duties or responsibilities of existing positions have undergone significant changes; (c) whenever notification is received that new positions are to be established by the City Council; or (d) upon request of an appointing authority if title classification of such position has not been reviewed within the last 12 months.

6.05 CLASSIFICATION OF POSITIONS

6.05.01 Each position in the classified service shall be classified by the Commission with the recommendation of the Secretary/Chief Examiner and allocated to its appropriate class in accordance with the character, difficulty, and responsibility of its designated duties. Positions shall be allocated to a given class when:

- (a) The same descriptive title may be used to designate each position in the class;
- (b) The same level of education, experience, knowledge, ability, and other qualifications may be required of incumbents; and
- (c) Similar tests may be used to select incumbents.

6.05.02 All classes involving the same character of work but differing as to level of difficulty and responsibility shall be assembled into a class series.

6.05.03 Compensation or salary shall not be a factor in determining the classification of any position or the standing of any incumbent.

6.05.04 In allocating any position to a class, the specification for the class shall be considered as a whole. Consideration shall be given to the general duties, the specific tasks, and the responsibilities, the required and desirable qualifications for such position, and the relationship to other classes. The examples of duties in a specification shall not be construed as exclusive or restrictive, and an example of a typical task or a combination of two or more examples shall not be taken, without relation to all parts of the specification, as determining that a position should be included within a class.

6.09 EFFECT OF CLASSIFICATION CHANGES ON INCUMBENT

- 6.09.01 TITLE CHANGE. Whenever the title of a class is changed without a change in duties or responsibilities, the incumbent shall have the same status in the retitled class as held in the former class.
- 6.09.02 UPGRADING OF POSITION. Whenever a position is reclassified from one class to a higher class, the incumbent may continue in the same position temporarily but must gain eligibility for the new class by examination and receipt of an appointment thereto in accordance with these rules. Provided, that the Commission may authorize the appointment of the incumbent to the new position without examination after considering the particular facts involved. A regular employee shall be qualified to take the examination for the higher class regardless of an existing eligible register for that class. A regular employee who fails the examination or is not appointed shall have tenured status in the lower class and may be appointed to another position, transferred or voluntarily reduced according to these rules. Layoffs are determined at the discretion of the Appointing Authority and reported to the Secretary/Chief Examiner. A probationary employee may be permitted, upon approval of the Commission, to qualify for the higher class in the same manner as a regular employee. A probationary employee who is not permitted to take the examination or who is not appointed to the position, may be appointed to another position, transferred, or enrolled on an appropriate eligible register for the lower class.
- 6.09.03 DOWNGRADING OF POSITION. Whenever a position is reclassified from one class to a lower class, the incumbent employee shall retain Civil Service status in the class from which the position is reallocated and shall, if practicable, be appointed to another position in that class or voluntarily transferred in accordance with these rules. Otherwise, the employee shall be granted full status in the lower class and placed on a reinstatement register for the higher class. The probationer's name shall be enrolled on an appropriate eligible register for the higher class with the same standing as at the time of original certification.

7. APPLICATIONS AND APPLICANTS

7.01 GENERAL REQUIREMENTS FOR FILING APPLICATIONS.

7.01.01 All applicants for examinations for positions in the classified Civil Service must file a written application on a form prescribed by the Secretary/Chief Examiner; no one shall be admitted to any examination without having first filed an application on the proper form, giving fully, truthfully, and accurately all information required.

7.01.02 In order to file an application for examination, the applicant must:

- (a) Meet the requirements specified in these rules and in the official examination bulletin as of the closing day of the official filing period;
- (b) Produce evidence of education, training, experience, or any lawful requirement for a class, as directed by the Secretary.

7.01.03 Time for filing applications:

- (a) Entry Level: All applications for examination shall be filed, as set by the Chief Examiner. Testing may be conducted on a continuous basis (i.e., police officer) or on an “as needed” basis (i.e., clerical).

Lateral Level: All applications shall be filed with the Chief Examiner/Secretary. Testing may be conducted on a continuous basis.

7.03 APPLICATIONS FOR PROMOTIONAL EXAMINATIONS

7.03.01 An application shall be accepted from any regularly appointed employee in the classes from which promotion is allowed who, in addition to meeting the requirements of Rule 7.01, has the requisite service credit designated in the official bulletin.

7.03.02 When designated in the official bulletin, the Secretary may permit regular employees and probationers to file for and take a promotional examination for delayed eligibility if within thirty days of accepting applications, they meet lower specified minimum service requirements in the classes from which promotion is allowed. If there is a conflict with the Collective Bargaining Agreement, the Collective Bargaining Agreement will prevail.

7.04 APPLICATIONS FOR POLICE CORPS

7.04.01 Applicants for the position of Law Enforcement Officer via the Police Corp project must be no less than 19 years of age upon application to the position and no less than 21 years of age at the time of appointment to the position of probationary law enforcement officer.

- 7.04.02 Applicants for the position of law enforcement officer shall be of the character as required in the City of Monroe “Police Applicant Standards” and be able to successfully complete all phases of the background process including a physical fitness examination. All applicants must:
- 7.04.02.1 Successfully graduate from an approved four year collegiate institution in accordance with the requirements of the Washington State Police Corp project, and
 - 7.04.02.2 Successfully graduate an approved Washington State Basic Law Enforcement academy, as identified by the requirement of the Washington State Criminal Justice Training Commission and in accordance of the requirements of the Washington State Police Corp project, and
 - 7.04.02.3 Possess a valid Washington State driver's license upon appointment, and
 - 7.04.02.4 The application process shall include an evaluation of personal resume, college transcript, fitness assessment, written and/or oral examinations, polygraph, psychological and medical examination, background investigation and pre-employment interview. The City of Monroe will complete this process prior to sponsorship of any Police Corp applicant and their attendance at the first phase of Basic Law Enforcement Academy training. Further, the agency reserves the right to re-administer any of the aforementioned evaluations and tests prior to attendance at the second phase of Basic Law Enforcement Academy training.
 - 7.04.02.5 The applicant must possess the identified requirements for the position as established by the Civil Service Commission and set out in the application process for the City of Monroe and the Washington State Police Corp project. The applicant must also successfully possess the required entrance standards and complete the identified training requirements as applicable.

7.05 SPECIAL REQUIREMENTS

- 7.05.01 The Commission may prescribe such limits and such other specific requirements, physical or otherwise, as in the Commission’s judgment are required by and related to the work to be performed.
- 7.05.02 When designated on the official bulletins, the Commission may permit filing by an applicant not more than six months under the specified minimum age on an open graded/entrance examination and not more than one year under the specified experience on a promotional examination. A successful candidate will have delayed eligibility until the required minimum age or experience is attained.

- 7.07 **CONDITIONAL ADMISSION.** If there is reasonable doubt as to whether the applicant meets the minimum requirements, the Secretary may order that the applicant be admitted to the examination on the condition that the particular requirements are met to the satisfaction of the Secretary before the applicant is enrolled on an eligible register.
- 7.09 **REJECTION OF APPLICANT OR ELIGIBLE.** The Secretary may reject an applicant for examination, withhold from a register or from certification the name of an eligible, or remove from a register the name of an eligible if the applicant or eligible:
- 7.09.01 Has been convicted of any felony or a misdemeanor involving illegal conduct (see Chapter 9.96A RCW);
 - 7.09.02 Has been dismissed or has resigned in lieu of discharge from any position, public or private, for any cause which would be a cause for dismissal from City service or has an unsatisfactory record of employment in the City service or with any other agency or firm;
 - 7.09.03 Has made any material false statement or has attempted any deception or fraud in connection with this or any other Civil Service examination;
 - 7.09.04 Fails to appear for fingerprinting or complete required examination materials as required;
 - 7.09.05 Has assisted in preparing the examination for which application is sought or has in any other manner secured confidential information concerning such examination, which might give an unfair advantage over other applicants in the examination;
 - 7.09.06 After notification, did not promptly appear at the time and place designated for the examination;
 - 7.09.07 Has been discharged from the armed forces under dishonorable conditions;
 - 7.09.08 For other material reasons.

See Rule 3.09, "Review and Appeal From Actions or Decisions of the Secretary."

- 7.11 **DEBARMENT FROM EMPLOYMENT.**
- 7.11.01 No one who has been dismissed from the Service for cause involving illegal conduct shall be allowed to again enter the Service, and anyone dismissed for other **than** good cause shall be allowed to again enter the Service only by express consent of the Commission with the approval of the Appointing Authority;

- 7.11.02 Any applicant for appointment, promotion, reemployment, increase of salary, or other personal advantage, who shall directly or indirectly pay or promise to pay any money or other valuable thing to anyone whatsoever for or on account of such actual or prospective advantage, shall be ineligible for any further employment in the Civil Service.
- 7.13 NOTICE OF NON-ACCEPTANCE. Anyone against whom action is taken under Rule 7.09 shall be notified promptly by the Civil Service Secretary/Chief Examiner of the reasons therefore by either oral notice at the time of filing the application and/or written notice mailed to the applicant or eligible.
- 7.15 ADMISSION TO EXAMINATION PENDING APPEAL. The Secretary/Chief Examiner may admit to the examination anyone whose application was not accepted, pending final disposition of an appeal, such admission to be without prejudice to either the City or the applicant.
- 7.17 AMENDMENT OF APPLICATION. The Secretary/Chief Examiner may permit any applicant, before or after acceptance of the application form, to amend the application or to file an amended application.
- 7.19 APPLICATIONS NOT RETURNED. All applications when completed and filed become the property of the Commission and thereafter may not be returned to the applicant.
- 7.21 APPLICATION FEE. A nonrefundable application fee may be collected. The amount of the fee is to be set by the Secretary/Chief Examiner. The fee may be waived at the discretion of the Secretary/Chief Examiner based on a showing of financial need.

8. EXAMINATIONS

- 8.01 **ORDERING EXAMINATIONS.** An examination shall be ordered whenever it is deemed to be in the best interest of the City. The Secretary/Chief Examiner may administer examinations as provided by these rules or, at the direction of the Commission, utilize at a Subscription Testing Service.
- 8.03 **EXAMINATION ANNOUNCEMENT.** Public notice of examinations may be placed by the Secretary/Chief Examiner in the official newspaper and in any other publications at least fourteen (14) days preceding such examination. The Subscription Testing Service as part of their agreement with the City may also post notices. The official bulletin (entry level or promotional) shall be posted on official city bulletin boards not fewer than fourteen (14) days preceding the examination.
- 8.05 **AMENDMENTS TO ANNOUNCEMENTS.** The Secretary/Chief Examiner may amend any published announcement with appropriate public notice.
- 8.07 **CONTINUOUS EXAMINATIONS.** A continuous or periodic examining program may be ordered and administered by the Secretary/Chief Examiner for any class of position other than promotional examinations. Filing will be open, applications received, and the examinations administered according to the needs of the service. The names of qualified eligibles resulting from such examinations shall be entered on the eligible register, and certifications for appointments shall be made in the same manner as from any eligible register.
- 8.07.01 **NOTICE.** Qualified applicants may take the examination at such times and places as specified in announced schedules which shall be posted by the Subscription Testing Service or others, as determined by the Chief Examiner.
- 8.07.02 **DURATION AND CLOSING.** Any open filing and examination period will indicate a closing date on the official bulletin and/or in the official city newspaper.
- 8.07.03 To expedite certification and appointment and to maintain security of examination material, no keyed copy of the written test will be provided at any time. The eligible register may be promulgated immediately after the results are obtained.
- 8.07.04 Except as above provided, the rules applicable to other examinations shall apply to periodic examinations.
- 8.09 **CHARACTER OF EXAMINATIONS.** All examinations shall be competitive, impartial, and practical in their character. They shall be designed to qualify and rank applicants in terms of their relative fitness to perform the duties of the class for which the examination was ordered. An examination shall be deemed to be competitive when applicants are tested as to their relative qualifications and abilities, or when a single applicant is scored against a fixed standard.

8.11 **CONTENT OF EXAMINATIONS.** Examinations may include video examination, written tests, personal qualifications, physical or performance tests, evaluations of training and experience, interviews, any other suitable evaluation of fitness, or any combination of such tests. Such tests may evaluate education, experience, aptitude, knowledge, skill, physical condition, personal characteristics and other qualifications to determine the relative fitness of the candidates.

8.13 **PARTS AND WEIGHTS.** Each examination shall contain one or more parts to which a raw score, rank order, or percentage weight shall be assigned. One or more of the following options shall be utilized in scoring an examination.

8.13.01 A raw score (actual number of questions answered correctly) shall be the sole indicator of final score of a written examination, unless otherwise determined by the Commission prior to exam administration.

8.13.02 A rank order list shall be the final result of an assessment center or other type of examination approved by the Commission. The rank ordering shall be determined by the number of points earned in an assessment center. Assessors retained by the Commission shall have the latitude and flexibility of recommending individuals for promotion in addition to not recommending individuals for promotion, thus not including those individuals on the eligibility list who do not receive recommendations.

8.13.03 A percentage weight shall be determined by multiplying the weight assigned to one or more parts of an examination and the sum of the resulting products, to be called the "weighted average."

8.15 **PASSING GRADES.**

8.15.01 In the event a final minimum passing score is required, the score shall be determined by the Commission prior to any examination in which a raw score is utilized.

8.15.02 Where an examination consists of two or more parts, the Commission may set a minimum score to be required in any part of such examination, and any applicant who fails to attain such minimum score shall be considered as having failed the entire exam and shall not be entitled to take the balance of the exam. The minimum score required and the part of the exam to which it is applicable shall be stated in the official bulletin or announced at the time of the examination.

[See also separate rule 8.41 for optional procedures regarding multi-part examinations.]

8.19 **PROMOTIONAL EXAMINATIONS.** Vacancies in the higher positions of a class shall be filled by promotion, whenever practicable in the judgment of the Commission. Upon showing from a department that special training and knowledge gained within the department is essential to the proper filling of the vacancy, the Commission may limit an examination to a promotion to internal applicants only so long as the examination is open and competitive.

- 8.21 OPEN GRADED EXAMINATIONS. An examination may be advertised as open graded when, in the judgment of the Commission, it is in the best interest of the service.
- 8.23 VETERANS' CREDIT. Veterans who have passed an examination shall be entitled to credit pursuant to Chapter 41.04 RCW on their final score.
- 8.29 KEYED COPY INSPECTION AND EXAMINATION PROTEST.
- 8.29.01 Any protest against the scope, content, or practicality of any part of an examination shall be filed in writing with the Secretary within three (3) working days immediately following the administration of such part or within the time limit specified on the examination instruction sheet.
- 8.29.02 When a keyed copy is provided, protests against the proposed keyed answers must be filed in writing within three (3) working days or the time limitation specified on the examination instruction sheet. No keyed copy will be provided for inspection on standardized tests or on continuous or periodic examinations.
- 8.29.03 When a qualifying grade is required on any part of an examination, those who fail to receive the qualifying grade shall be notified, and any protest or appeal must be filed in writing within three (3) working days after the notices of results have been mailed.
- 8.29.04 Any protest against scoring or any allegation of clerical error in the final results of an examination must be filed in writing within three (3) working days after the notices of results have been mailed.
- 8.29.05 All protests filed in accordance with this rule shall be considered, and any proper corrections made. If authorized corrections are applicable to other examinees, the corrections shall be made on all examination papers affected.
- 8.29.06 Review of examination protests is part of both the eligibility process and the hearing function of the Commission. The protest must be filed with the Chief Examiner who will review the protest and either act upon the sought remedy (if it appears to be valid) or deny it. If the Chief Examiner denies the protest, the appellant may wish to have the Commission hear it. The Commission will then issue a written finding of facts and render a decision in the matter.
- 8.31 CORRECTION OF CLERICAL ERRORS. Any clerical error may be corrected by the Secretary upon discovery at any time during the life of the eligible register, but no such correction shall affect an appointment made from a certification made prior to the correction.
- 8.33 EFFECTIVE DATE OF EXAMINATION RESULTS. Results of an examination shall become effective on the date of certification by the Civil Service Commission

8.35 REEXAMINATION.

8.35.01 No one shall be reexamined for the same class within six months of the effective date of such examination, unless authorized by the Commission on the request of the Appointing Authority upon determination that it would be in the best interest of the City.

8.35.02 If an eligible takes a succeeding examination for the same class, the result of such examination shall not nullify any remaining eligibility already established. Eligibility attained by the second examination shall be entered on the register, and the eligibility that will provide the greatest advantage to the eligible shall be used.

8.37 EXAMINATION PAPERS. Examination papers of each eligible shall be kept on file in the office of the Commission until six months beyond the expiration of eligibility.

8.39 ADDITIONAL EXAMINATION.

8.39.01 Eligibles certified pursuant to Rule 9 shall be subject to medical, physical, and/or psychological examination and to such other examinations administered by the Hiring Authority as authorized and approved by the Commission. Such other examinations include, but are not limited to, background examination and polygraph, provided, however, polygraph examination shall be allowed only as provided for under RCW 49.44.120. Reports of such examination shall be filed with the Commission in the event the findings of the examination recommend that the eligible be rejected. The Appointing Authority shall consider such recommendation, may require further examination, and may request that the Commission drop the eligible's name from the eligible register.

8.39.02 The Secretary/Chief Examiner may designate a limited number of certified eligibles for additional Examination as provided in Rule 8.39.01, in order to maintain an ability to certify registers pursuant to Rule 10.

8.41. MULTI-PART EXAMINATION. Where an examination consists of two or more parts, the Commission may:

8.41.01 Set a minimum score to be required in any part of such examination, and any applicant who fails to attain such minimum score shall be considered as having failed in the entire exam and shall not be entitled to take the balance of the exam;

8.41.02 Assign weights to each part of the examination, with the examinee's earned examination score equaling the weighted average of the scores on each part;

8.41.03 Limit the number to be further considered or tested to a group of the highest scoring applicants, depending on the number of applicants who meet the minimum requirements for a position;

- 8.41.04 Employ all or any of the above options for multi-part examinations in any examination.
- 8.43 **NUMBER OF APPLICANTS -- LIMITATIONS.** The Chief Examiner may restrict the number of qualified applicants to be examined at any one time whenever an examination for a position is likely to attract large numbers of qualified applicants, and when job-related testing processes are prohibitively costly or impractical to administer to all qualified applicants, or may have adverse impact on protected groups. Limitations on the number of applicants should appear on the job announcement.
- 8.43.01 **RANDOM SAMPLE.** The Secretary may provide for a random sample of qualified applicants to be drawn for an entry-level examination by so stating in the Examination Bulletin. Those qualified applicants whose names are not drawn for the initial group to be examined shall be held on file. Should the initial group examined fail to yield an eligibility list of sufficient size to meet the needs for eligibles for that class, or should the list become exhausted before it expires, a sample from the remaining qualified applicants will again be drawn and the examination process repeated.
- 8.43.03 **MULTI-PART EXAMINATIONS.** The Chief Examiner may limit eligibility in subsequent exam parts to those scoring highest on a preliminary test or series of tests; provided, however, the number of examinees shall be established before administration of preliminary tests.

9. REGISTERS AND ELIGIBILITY

9.01 ESTABLISHMENT OF ELIGIBLE REGISTERS. After each examination, an eligible register for the class shall be prepared on which the names of successful candidates shall be ranked as follows:

9.01.01 On a promotional register: relative rank shall be determined by the examination rating or grade, and may include any additional points for service credit plus percentage allowed by law for veterans' preference. Promotional exams are only open to current city employees with Civil Service status. In addition, promotional eligibility lists are valid for two years, with the ability to extend the list for another one year, with the commission's approval.

9.01.02 On an entry level register: relative rank shall be determined by the examination grade, plus percentage allowed by law for veterans' preference. Certification of entry-level candidates shall be valid for one year from the date of being placed on the entry-level register.

9.01.03 The preference in rank of eligibles having equal final general averages shall be determined as follows, in the order stated:

(a) The one who qualifies for veterans' preference in accordance with Washington state law. Eligibles on a promotional register do not so qualify, or

(b) When the examination is composed of two or more parts with separate grades, the one who has:

(1) The highest grade on the most heavily weighted part of the examination; if a tie still exists, then the highest grade on the next most heavily weighted part, and so on for as many parts as the examination contains.

(2) The highest grade on the written test if all parts are weighted equally.

(c) When the examination has only one part or the candidates have the same standing under (a) and (b) above:

(1) As between examinees who are City employees, the one having the greater service credit with the City, regardless of class or department;

(2) If one is a regular or probationary City employee and the others are not, the regular City employee has preference.

(d) By lot.

- 9.01.04 If an applicant is permitted to file for and take an examination for delayed eligibility, and if such applicant is successful in the examination, eligibility shall be held in abeyance until the candidate meets the requirements for eligibility, including availability for employment, which must be reported in writing. If otherwise eligible, the candidate's name shall be placed on the register in accordance with the final examination grade. Any such eligibility shall expire with that of other eligibles from the same examination.
- 9.03 ESTABLISHMENT OF REINSTATEMENT REGISTERS. On layoff, an employee's name shall be placed upon the reinstatement eligible register for the class, according to seniority, for one year from the date of such layoff.
- 9.03.01 The names of regular employees who have been laid off or, when requested in writing by the appointing authority, probationary employees who have been laid off shall be placed upon a reinstatement register for the same class and for the department from which laid off, for a period of one year from the date of layoff;
- 9.03.02 Upon the request of an appointing authority, the Secretary may approve the certification of anyone on such a reinstatement register as eligible for appointment on an open competitive basis in the department requesting certification.
- 9.05 RETURN TO ELIGIBLE REGISTER AFTER RESIGNATION OR RETIREMENT.
- 9.05.01 A former employee who resigned or retired may request return of his name to the proper open graded eligible register for the class. Such request must be made within one year from the date of resignation or retirement, provided, the Secretary may extend the above time limitation, or not to exceed an additional four years upon satisfactory showing that such extension would be in the best interest of the City. (Please refer to LEOFF rules.)
- 9.05.02 Any request for return to register following resignation or retirement must be supported by written recommendation of the Appointing Authority.
- 9.05.03 A former employee whose eligibility is reinstated under this rule shall be certified according to Civil Service rules.
- 9.05.04 The name of a former employee who resigned or retired may not be returned to a promotional register, unless recommended by the head of the former employing department and approved by the Civil Service Commission within one year from the date of resignation or retirement.
- 9.06 APPOINTMENT WITHOUT EXAMINATION. Except as provided in 9.03 and 9.05, any return to the Civil Service shall be by examination only.

9.11 AVAILABILITY OF ELIGIBLES.

- 9.11.01 It shall be the responsibility of an eligible to notify the Civil Service Commission in writing immediately of change in address, telephone number, change of name through marriage or otherwise, or any changes which may affect availability for employment.
- 9.11.02 The Commission, with the approval of the Appointing Authority, may order that the name of an eligible who submits a written statement restricting the conditions under which available for employment be withheld from certifications which do not meet the conditions specified.

9.13 CANCELLATION OF ELIGIBILITY.

- 9.13.01 Anyone's name may be removed from an eligible register for failure to pass a required examination or upon receipt of proof of material physical or mental disability which cannot, on the determination of the Appointing Authority, be reasonably accommodated, bad character or other unfitness, fraudulent conduct, or false statements by the eligible or by others with the eligible's collusion, in connection with any application, examination for, or securing of an appointment. A previous unsatisfactory work record with the City or dismissal from the service, or dismissal from any position, public or private, for any cause which would be a cause for dismissal from City service shall be deemed cause for cancellation of eligibility;
- 9.13.02 Separation from the service will terminate any promotional eligibility; unless the Commission on application of the Appointing Authority determines it in the best interest of the City to allow promotional eligibility.
- 9.13.03 Upon request of an appointing authority that an eligible has failed to respond to written notification within ten days from the date of mailing, or has refused to accept employment, the Chief Examiner and/or Secretary may strike the eligible's name from the register;
- 9.13.04 Failure to respond to the canvass of a register within ten (10) days from such canvass shall be deemed cause to strike the name of any eligible from the register;
- 9.13.05 Refusal to accept reemployment in a regular position shall constitute separation from the service except as provided in Rule 9.03e;
- 9.13.06 Such action contemplated by this rule may also be taken for other material reasons.

9.14 REMOVAL OF NAMES. The names of candidates certified to this eligibility list shall remain on the list until:

- certified to a secondary eligibility list (upon start of background process), or
- expiration of one year from the date of certification, or
- request by Appointing Authority to remove name based on unsatisfactory completion of background process, or other good cause; or
- notification by the candidate (i.e., hired by another agency, changed their mind, etc.)

9.15 RESTORATION OF NAMES TO ELIGIBLE REGISTERS. The name of an eligible which has been removed from a register may be restored upon written request to the Secretary/Chief Examiner for such restoration. The request must specify the reasons for the requested restoration. The Commission may approve the request if it is deemed that the evidence submitted justifies such approval.

10. CERTIFICATION AND APPOINTMENT

10.01 GENERAL PROVISIONS. Vacancies in the classified Civil Service shall be filled by reinstatement, promotional appointment, assignment, original appointment, transfer, reduction, or demotion. In the absence of an appropriate register, the Chief Examiner and/or Secretary may authorize a temporary or provisional appointment.

10.03 REQUEST FOR CERTIFICATION. Whenever an appointing authority wishes to fill a vacancy, a request for certification shall be submitted to the Chief Examiner and/or Secretary. The request shall show the number of positions or vacancies to be filled, the class title, tenure of work to be performed, cause of the vacancy, or if a new position, authority for the appointment and any other details for full description of the position to be filled.

10.05 CERTIFICATION.

10.05.01 Eligible Register. Certification to fill a vacancy shall be made by the Civil Service Commission from registers and as provided in this rule:

- (1) Reinstatement
- (2) Promotional
- (3) Entry Level
- (4) Lateral
- (5) Police Corps

10.05.02 Order of reinstatement--Eligible.

- (1) If a vacancy is to be filled from the reinstatement register, the following shall be the order of certification:
 - (a) Regular employees in the order of their length of service. The regular employee on such register who has the most service credit shall be first reinstated;
 - (b) Probationers, without regard to length of service. The names of all probationers upon the reinstatement register shall be certified together.
- (2) Upon request from the appointing authority, the Commission may authorize reinstatement out of such regular order upon a showing of efficiency or that such action is for the good of the service, after giving the employees adversely affected an opportunity to be heard.

10.05.03 Upon approval by the Commission, the Secretary/Chief Examiner shall certify to the appointing authority the names of the **five** available eligibles that stand highest on the appropriate register.

10.05.05 Multiple Vacancies. If two or more vacancies are to be filled from any of the above registers other than the reinstatement register, the name of one additional person shall be certified for each additional position.

- 10.05.07 Additional Names. If an appointing authority makes an acceptable showing that any of the eligibles certified are not available or that they do not respond, sufficient additional names shall be furnished to complete the certification.
- 10.05.09 Special Skills. Where a certification of eligibles with special experience, training or skills is requested in writing by the appointing authority as being necessary for satisfactory performance in a particular position, and the Commission determines that the reasons given fully justify the request, a certification may be made of only the highest ranking eligibles who possess the special qualifications.
- 10.05.11 Prior Service. If a temporary vacancy is to be filled from an open or a promotional register, those eligibles with three months of service who are shown on the register as having been laid off within the last 12 months from the department shall be placed in order of seniority at the head of the list of eligibles for certification according to rule.
- 10.05.13 Application/Examination. The application and the examination papers of a certified eligible shall be available for inspection by the appointing authority.
- 10.07 DEFERMENT OF CERTIFICATION. The Chief Examiner and/or Secretary may grant deferment of certification of an eligible upon receipt from the eligible of a written request with satisfactory reason therefor. Such deferment will thereafter prevent certification of such eligible until the next vacancy occurring after the eligible has given written notice of his or her desire to be returned to the register, and such return has been approved by the Chief Examiner and/or Secretary.
- 10.09 DURATION OF CERTIFICATION. Certification shall be in effect for thirty (30) days from its date of issuance. The appointing authority must file a report of any appointment from such certification with the Secretary/Chief Examiner. Upon request, the Secretary/Chief Examiner may extend such certification for additional 30-day periods. Expiration of eligibility shall not cancel the validity of a certification.
- 10.11 REGULAR APPOINTMENT. A regular appointment to fill a vacancy must be made from the names contained on the official certification. The official appointment report shall show the name of the person appointed, the effective date, the salary, the nature or duration of the appointment, and any other information required.
- 10.13 PROVISIONAL APPOINTMENT. Where there is no suitable eligible register from which certification can be made, the Secretary/Chief Examiner may allow the appointing authority to make a provisional appointment. A provisional appointment may be made for a period of up to four months and may be extended for a longer period of time. No person shall receive more than one provisional appointment in any 12-month period. All provisional employment in a class shall cease at the earliest possible date and shall not exceed thirty (30) days from date of notice that a proper eligible register for such class is available, provided, an extension may be granted by the Secretary/Chief Examiner upon satisfactory written showing by the appointing authority, if such extension will not cause the provisional appointment to exceed the four-month limitation.

10.15 TEMPORARY APPOINTMENT. The Civil Service Commission has no jurisdiction over temporary appointments (see bargaining contract and/or employee handbook for further definition of “temporary”).

11. PROBATION

11.01 PROBATIONARY PERIOD.

11.01.01 After each full-time or part-time regular appointment from an eligible register, the employee appointed shall serve a complete period of probation before the appointment is deemed complete. The purpose of the probationary period is to provide an orientation period during which the department may observe and evaluate the work performance of the probationary employee before civil service status is acquired.

11.01.03 A probationary period is required for the following civil service appointments: new hire; reemployment; rehire; transfer from a non-Civil Service position; and transfer from a probationary status in another classification or department.

11.03 LENGTH OF PROBATIONARY PERIOD. The period of probation shall be equivalent to twelve months of full-time service following successful completion of basic training (if collective bargaining contract is in conflict, bargaining contract rules). Minor absences due to vacations, annual military leave, illnesses, etc. shall not be construed as interrupting the probationary period unless an absence or absences are considered to be excessive to the extent that the Commission will approve a departmental request for an extension of the probationary period. Upon request of the appointing authority probationary periods may be extended up to six months (or per bargaining contract).

11.05 INTERRUPTION OF PROBATIONARY PERIOD BY MILITARY SERVICE. A probationer who engages in active military service on an extended basis shall be considered as having an interrupted probationary period. Such probationer may continue the probationary period following return from military leave, provided, however, that the probationer shall serve at least six (6) months or such period as the Commission shall set on the request of the Appointing Authority.

11.07 SERVICE IN ANOTHER CLASS. Service in a class or office other than the one to which an eligible is regularly appointed may be credited toward completion of a probationary period if the Secretary has approved the written statement of the appointing authority to the effect that the probationary period may be properly judged on the basis of service in the other class or office.

11.09 REMOVAL OF PROBATIONER.

11.09.01 Grounds. The Appointing Authority may discharge or demote any probationary employee at any time during the probationary period whenever the Appointing Authority determines, in his or her sole discretion, that the probationary employee's job performance is unsatisfactory or that the probationary employee does not possess the qualities to merit assignment of

completed Civil Service status. Just cause is not required for the discharge or demotion of a probationary employee. The Commission shall not review the decision of the Appointing Authority to discharge or demote a probationary employee except under the limited provisions of rule 11.13.

11.09.02 Procedure. The Appointing Authority who discharges or demotes a probationary employee must deliver written notice of the decision to discharge or demote to the probationary employee and must mail or deliver copies of the notice of discharge or demotion to the Commission and to the Mayor before midnight of the last day of the employee's probationary period.

11.09.03 Rights Retained. A promotional probationer, unless discharged for cause, retains all civil service rights to the position from which appointed.

11.11 DEMOTION. A probationer may be demoted for inability to perform satisfactorily the duties of the position to which he or she was appointed, in accordance with Rule 17.03 on demotion; or may be allowed eligibility for another position in the same class, for which he or she is deemed qualified by the appointing authority, subject to approval by the Commission. A probationer demoted to a class in which he or she has not held regular standing shall start a new period of probation.

11.13 PROTESTS. Any probationer may file a written protest with the Secretary protesting a termination of probationary status or demotion therefrom. All protests must be filed within fourteen (14) days of receipt of notice of the action taken by the Appointing Authority. A protest is not an appeal as a matter of right of the decision of the Appointing Authority to dismiss or demote a probationary employee. The Secretary will bring all protests before the Commission which may, in their discretion, conduct an investigation into the facts and circumstances of a probationary employee's dismissal or demotion if a timely protest has been filed and if the protest raises substantial questions of fact as to whether the Appointing Authority acted fraudulently or with discriminatory intent due to the probationer's political or religious opinions, race, age, gender, or union affiliation.

11.14 ACTING OR TEMPORARY APPOINTMENTS. If an employee's appointment to a position is an acting or temporary appointment, the time during which the employee performs the duties of the position in an acting or temporary capacity shall not be credited toward the employee's completion of later probationary period for an equivalent class.

12. SERVICE CREDIT

12.01 Service credit in a class for a regular employee shall be computed to cover all service subsequent to regular appointment in that class within the Police Department.

12.03 DETERMINATION.

12.03.01 The determination of a regular employee's earned service credit shall be made on the basis of the available payroll, personnel and other records. If payroll records are not available for any particular period, it shall be refutably presumed that each regular employee employed during such period, as shown by other records, earned full service credit in the particular class and department in which employed, for the entire length of such period.

12.03.02 Following the requisite probationary period and upon appointment or reappointment, the seniority and service credit of the employee shall begin anew and be computed without benefit or credit of any prior service except as the Commission may otherwise authorize for the good of the service.

12.04 REQUESTS FOR CONFIRMATION.

12.04.01 **REQUESTS.** Any regular employee, or an association or union on behalf of such employee, or the Appointing Authority may request a determination of the employee's earned service credit as of a designated date in any specified class and department in which he has served. If the request is made at a reasonable time and interval, and subject to such directives as may be then in effect, the Secretary/Chief Examiner shall as soon as practicable but within fourteen (14) days ascertain the requested computation, and shall so notify the requesting employee, association, union or Appointing Authority in writing.

12.04.02 **PROTESTS.** If any employee, association, union or Appointing Authority has cause to object to the computation of the employee's service credit, written protest may be filed with the Secretary setting forth with particularity the reason and basis for his objection. Such protests must be filed within fourteen (14) days. The Commission shall give due consideration to all timely-filed protests and take such action as deemed appropriate.

12.05 SERVICE COVERED.

12.05.01 **GENERALLY.** Once a regular employee acquires tenured Civil Service status and regular standing in any given class in a particular department, the employee shall receive full service credit for the entire length of time served in such class and department, whether such service is continuous or interrupted.

12.05.02 **PROBATIONARY PERIOD.** After completion of an original or promotional probationary period, a regular employee shall receive credit for

actual service during such period. If a probationer fails to complete satisfactorily the required probationary period and is returned to his former regular class, actual service during such period shall be credited to the former class.

- 12.05.03 TEMPORARY OR PROVISIONAL APPOINTMENT. If a temporary or provisional appointment is followed by a regular appointment to the same class, such employee shall receive credit in such class for actual, continuous service during the temporary or provisional appointment. A regular employee shall receive service credit in the regular class for the period after the regular appointment, served under a temporary or provisional appointment to another class or department or to an exempt position, if the employee returns to the regular class after the expiration or termination of such service.
- 12.05.04 ON ASSIGNMENT. A regular employee shall be credited to the regular class for the entire length of time served under an assignment.
- 12.05.05 LEAVES WITH PAY. A regular employee shall receive full service credit for any leave with pay.
- 12.05.06 LEAVES WITHOUT PAY. No service credit shall be allowed for any time that an employee is on any leave of absence without pay, unless otherwise required by state or federal law.
- 12.05.07 SUSPENSION. No service credit shall be allowed while an employee is on a suspension without pay, unless the suspension is modified, reversed or nullified on appeal.

12.06 CHANGE IN CLASS.

- 12.06.01 GENERALLY. No service credit earned by a regular employee in any one class shall be carried over upon appointment, promotion, reinstatement, transfer, demotion or voluntary reduction to or from another class or department, but such service credit shall be permanently retained in and be credited to the class and department in which it was earned, unless expressly provided by these Rules.
- 12.06.02 ABOLITION OF CLASS. In the event that a regular employee's former class is abolished or changed, all service credit earned in such class prior to its abolition or change and not lost or forfeited shall be credited to another class in the same department which is substantially similar to, and is neither higher nor lower than, the abolished or changed class.
- 12.06.03 COMBINATION--COMPUTATION. Whenever the service credit of a regular employee earned in two or more classes, or in the same class in different departments, is to be combined under these Rules as hereinafter prescribed, the service credit earned and not lost or forfeited in each such class and department shall be computed separately and shall be added

together, and the total sum shall represent the employee's service credit for the particular purpose in question.

- 12.07 **PROMOTION--COMPUTATION OF CREDIT.** Upon completion of the probationary period for a promotional position, an employee shall receive credit for all service in the promotional class and which shall be credited to that class and department. All prior service credit earned in the lower class and department shall be retained by the employee, but such service credit shall be credited only to the latter class and department.
- 12.08 **TRANSFER--COMPUTATION OF CREDIT.** A regular employee shall be entitled to retain all service credit earned in any class and department prior to an authorized transfer therefrom, which shall be credited to such former class. Service credit earned in the new class or department to which transferred shall be credited to such new class or department, from the effective date of the transfer. If the transfer becomes tenured, the required probationary period, if any, shall be credited to the new class or department. Otherwise such probationary period as served shall be credited to the former class or department.
- 12.09 **DEMOTION--COMPUTATION OF CREDIT.** Upon the involuntary demotion of an employee in accordance with these Rules, all service credit earned in the class and department from which demoted, up to the effective date of the demotion shall be retained by the employee, unless otherwise provided in the demotion order and approved by the Commission. From that time, the employee shall be entitled to such service credit earned in the lower class to which demoted, plus whatever service credit formerly earned in such class and department and not lost or forfeited. Any required probationary period, if satisfactorily served, shall be credited to that lower class. If not satisfactorily served and demoted again, such probationary period as actually served shall be credited to the next lower or other class in which the employee acquires regular standing or, in the event of a layoff, to the class and department from which the employee is laid off.
- 12.10 **VOLUNTARY REDUCTION--COMPUTATION OF CREDIT.** Upon the voluntary reduction of a regular employee to a lower class as provided by these Rules, such employee shall retain all earned retention credit in the higher class and department from which reduced, prior to such reduction, if not lost or forfeited.
- 12.11 **REALLOCATION--COMPUTATION OF CREDIT.**
- 12.11.01 **SIMILAR CLASSES.** If a regular employee's position is reallocated to a different class which is substantially equivalent to the former class, all the service credit previously earned in the former class and same department and not lost or forfeited shall be credited to the new class. In addition thereto, the employee shall receive all service credit subsequently earned in the new class and the same department.
- 12.11.02 **DISSIMILAR CLASSES.** If the position is reallocated to a class, which is not substantially similar, the service credit earned in the former class shall be credited to such former class and department.
- 12.12 **LAYOFF--COMPUTATION OF CREDIT.** No service credit shall accrue or be allowed during the period in which an employee is laid off, but all service credit earned and not lost or forfeited up to the effective date of the layoff shall be retained by the employee.

12.14 **SERVICE CREDIT UPON SEPARATION FROM SERVICE.** Upon separation from service, no credit shall be given or allowed for any prior service or employment up to the time of such separation, and except as otherwise specifically provided by these Rules, service credit shall be forfeited and not be reinstated upon reemployment by the City.

13. TRANSFER--REDUCTION

13.01 The transfer of an employee shall not constitute a promotion in the service, except as provided in Rule 13.03.04, below.

13.02 **INTRA-DEPARTMENTAL TRANSFERS.** An appointing authority may transfer an employee from one position to another position in the same class in the Police Department without prior approval of the Commission but must report any such transfer to the Secretary/Chief Examiner within five days of its effective date.

13.03 Transfers may be made at the direction of the Appointing Authority with notification to the Commission as follows:

13.03.01 Transfer in the same class from one department to another; such a transfer may be made concurrent with the appointment of an employee to another class;

13.03.02 Transfer to another class when necessary to fulfill any disability accommodation request under state or federal law.

13.03.03 Transfer, in lieu of layoff, may be made with limited standing to a single position in another class upon showing that the transferee is capable of satisfactorily performing the duties of the position and that a regular employee or probationer is not displaced. Regular standing in the new class may be attained by the employee only through examination and permanent regular appointment.

13.03.04 Transfer, in lieu of layoff, may be made with limited standing to a single position in another class when such transfer would constitute a promotion or advancement in the service provided a showing is made that the transferee is capable of satisfactorily performing the duties of the position and that a regular employee or probationer is not displaced and when transfer in lieu of layoff under Rule 13.03.03 is not practicable. Regular standing in the new class may be attained by the employee only through examination and permanent regular appointment.

13.04 These rules have no authority or effect on positions or departments not subject to the Civil Service. Transfer to or from positions or departments not subject to the Civil Service are unaffected by these rules.

13.05 **REDUCTION – Non-cause related removal.**

13.05.01 **AUTHORIZED.** As defined in Rule 4.73, a reduction is the movement of an employee from a higher class to a lower class of employment for reasons

other than cause. A reduction may be made only upon an employee's written request, and consistent with these Rules.

13.05.02 APPLICABLE CLASSES. A reduction may be approved for

- (a) The next lower or any lower class in the Class Series containing the class from which reduced;
- (b) Any lower class in which the employee has acquired previously Regular Standing, provided there has been no intervening forfeiture; or
- (c) Any lower class which is substantially similar to any lower class (in the employee's current class series) in the position classification plan; or
- (d) For employees seeking return to employment or reemployment from a disability, to a vacant position in another permissible class or department for which the employee qualifies.

13.05.03 PROCEDURE.

- (a) A request for reduction must be submitted in writing to the Secretary. The request must include statement of justifiable or satisfactory reason, including a showing that the employee meets the qualifications of the lower class.
- (b) The reduction must be approved by Human Resources and the head of the department in which the lower class is located, and reported to the Commission.
- (c) The reduction shall take effect on the date ordered by the Commission.

13.05.04 EFFECT OF REDUCTION.

- (a) Upon the effective date, or following satisfactory completion of any probationary period, the reduction shall be complete and the employee shall have Regular Standing in the lower class and department to which reduced.
- (b) An employee reduced shall be able to return to the former position only by examination and regular appointment, or in the event of a recovery from disability, appointment from a reinstatement register.

13.05.05 REDUCTION AVAILABLE.

- (a) By Employee. A voluntary reduction may be sought by an employee for any vacant position in a class under Section 13.05.02.

(b) By Department.

- (1) Employees with Standing. Reduction involuntarily of an employee from a higher civil service class to a lower civil service class is governed by Rule 13, Layoff. Return of an employee from an exempt position to a civil service position is governed by Rule 15, Leaves of Absence. This rule shall not apply to disciplinary demotions.
- (2) Employees Without Standing. When an employee is reduced from an exempt position, the employee may petition in writing to the Commission within 10 days of the end of employment in the exempt position for placement on a reinstatement register for a class for which the employee is deemed eligible. In considering the placement of the employee, the Commission may consider the employee's experience, the record of City employment, or such other factors as deemed in the best interest of the System. The Commission's decision shall be deemed permissive and discretionary, and an employee shall have no claim or cause for denial of placement on a reinstatement register.

13.05.06

The Commission may, in its judgment and discretion, provide in the order granting or approving any reduction that the employee shall serve a designated probationary period, not to exceed one month's service from the effective date of the reduction, in the position to which reduced for the sole purpose of satisfying the Commission that employee is capable of satisfactorily performing the functions and duties of such position or class.

Provided, however, that the Commission may by its order for cause, at any time during the running of a prescribed probationary period, either extend, shorten, modify or waive in whole or in part the duration or balance of such period.

14. LAYOFF

- 14.01 In a given class in a department, the following shall be the order of layoff:
- 14.01.01 Provisional appointees;
 - 14.01.02 Temporary or intermittent employees not earning service credit;
 - 14.01.03 Probationers (except as their layoff may be affected by military service during probation);
 - 14.01.04 Regular employees in the order of their length of service, the one with the least service being laid off first.
- 14.02 Layoff Out of Order. The Commission may grant permission for layoff out of the regular order, upon showing by the Appointing Authority of a necessity therefor in the interest of efficient operation of the department, after giving any employee or employees affected an opportunity to be heard.
- 14.03 Reduction in Lieu of Layoff. At the time of any layoff, a regular employee or a promotional probationer shall be given an opportunity to accept reduction to the next lower class in a series of classes in his department, or he may be transferred as provided by Rule 13.03.03, Transfer in Lieu of Layoff. An employee so reduced shall be entitled to credit for any previous regular service in the lower class and to other service credit in accordance with the Service Credit Rule 12.

15. LEAVES OF ABSENCE

- 15.01 All leaves of absences shall be in accordance with the Leave of Absence Policy adopted by the City, a copy of which is attached hereto and incorporated as though fully set forth.

16. RESIGNATION

- 16.01 **HOW SUBMITTED.** Resignation of any employee from the service shall be made in writing and filed with the Commission and Human Resources after approval by the Appointing Authority.
- 16.02 **WITHDRAWAL OF RESIGNATION.** The Secretary may permit the withdrawal of a resignation only upon a written request filed within [one hundred and eighty (180)] days from the effective date of the resignation and if such request for withdrawal bears the favorable recommendation of the appointing authority.
- 16.03 **INVOLUNTARY RESIGNATION.** Any resignation may be voided and set aside and the employee reinstated or restored to active duty by order of the Commission upon its determination that the resignation was made involuntarily or under duress or coercion, after giving the Appointing Authority reasonable notice and an opportunity to be heard on the matter. Such action by the Commission may only be taken upon the written petition of the resigned employee filed with the Secretary within fourteen (14) days from the effective date of the resignation. If no such petition is filed within the fourteen (14) day limit, a resignation shall be conclusively presumed to have been made voluntarily and without duress or coercion.
- 16.04 **IMPLIED RESIGNATION.** The Appointing Authority may presumptively consider any employee to have resigned upon finding that such employee has been absent from duty without leave or authorization or has failed to report for duty following the expiration or termination of any suspension for five (5) or more consecutive working days or has quit or "orally resigned" and has been absent from duty for three (3) or more consecutive working days without leave or authorization. An employee will not be determined to have resigned under this rule until five (5) days after proof of service of a written notice by registered or certified mail to the employee's last known address.
- 16.05 **RETURN TO ELIGIBLE REGISTER FOLLOWING RESIGNATION.** (See Rule 9.05).

17. DISCIPLINE AND DISCHARGE

17.01 SUSPENSION.

17.01.01 The Appointing Authority may suspend a subordinate, with or without pay, for a period not to exceed thirty (30) days for good cause.

17.01.02 Any deprivation by a Appointing Authority of any vacation or other paid leave, compensatory time-off or other privilege involving pay or compensation either directly or indirectly, to which an employee is otherwise entitled under law and these Rules, shall be deemed to be a suspension without pay and shall be subject to the above provisions.

17.03 DEMOTION--DISCHARGE.

17.03.01 The Appointing Authority may discharge an employee or demote an employee to a lower class for cause. An employee so demoted shall lose all rights to the higher class. If the employee has not had previous standing in the lower class, such demotion shall not displace any other regular employee or any probationer.

17.03.02 The Commission shall be satisfied as to the ability of such demoted employee to perform the duties of the lower class. The demoted employee may be required to actually and actively serve a probationary period in the class to which demoted, for such time and upon such terms and conditions as the Appointing Authority may provide in the demotion order, for the sole purpose of determining that he is capable of satisfactorily performing the functions and duties of such class.

17.03.03 Upon the satisfactory completion of the prescribed probationary period or upon the effective date of the demotion if no such period is required, the demoted employee shall have the status, rank and standing of the lower class to which demoted, and such class and department shall be deemed to be his regular class and department for purposes of these Rules until an authorized change is made.

17.05 DISCIPLINE--GOOD CAUSE--ILLUSTRATED. The following are declared to illustrate adequate causes for sustained discipline; discipline may be made for any other good cause:

17.05.01 Incompetency, inefficiency, inattention to, or dereliction of duty;

17.05.02 Dishonesty, intemperance, illegal conduct, insubordination, discourteous treatment of the public or a fellow employee, or any other act tending to injure the public service, or any other willful failure on the part of the employee to properly conduct himself;

17.05.03 Mental or physical unfitness for the position, which the employee holds;

- 17.05.04 Dishonest, disgraceful, or prejudicial conduct;
- 17.05.05 Drunkenness or use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid, or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under Civil Service;
- 17.05.06 Conviction of a felony, or a misdemeanor; involving moral turpitude;
- 17.05.07 False or fraudulent statements or fraudulent conduct by an applicant, examinee, eligible, or employee, or such actions by others with his or her collusion;
- 17.05.08 Willful or intentional violation of any lawful and reasonable regulation, order or direction made or given by a superior officer;
- 17.05.09 Willful or intentional violation of any of the provisions of these rules.
- 17.05.10 Violation of the Police Department's Standard Operating Procedures ("SOP") regarding rules of conduct.
- 17.05.11 Any other cause, act or failure to act which, under law or these Rules, or the judgment of the Commission, is grounds for or warrants dismissal, discharge, removal or separation from the service, demotion, suspension, forfeiture of service credit, deprivation of privileges or other disciplinary action.

18. PREDISCIPLINARY HEARING

18.01 PREDISCIPLINARY HEARING--REQUIRED. An Appointing Authority shall provide and arrange for a predisciplinary hearing prior to discharge of a subordinate.

18.03 PREDISCIPLINARY HEARING--STANDARDS/NOTICE OF DISCIPLINE.

18.03.01 An employee shall be provided, in writing, with a notice of the charge and an explanation of the department's evidence. The employee shall be given an opportunity to respond to the charges, by participating in an interview with the Chief, as to why the department's proposed action should not be taken (Loudermill). Prior to the proposed disciplinary action, the employee or his/her designated representative has the right to a reasonable opportunity to respond either orally or in writing to the authority imposing discipline.

18.03.02 The employee may have legal counsel or union representation present at a predisciplinary hearing (Weingarten).

18.03.03 The department's explanation of the department's evidence at the predisciplinary hearings shall be sufficient to apprise the employee of the basis for the proposed action. This rule, however, shall not be construed to limit the employer at subsequent hearing from presenting a more detailed and complete case, including presentation of witnesses and documents not available at the predisciplinary hearing, so long as the new evidence relates to the basis for discipline presented to the employee prior to the predisciplinary hearing.

18.03.04 Should the appointing authority determine to discipline following the predisciplinary procedure, written notice of discipline shall be given to the employee. Such notice shall include the charges against the employee and a general statement of the evidence supporting the charges.

18.03.05 The Commission shall not consider, on appeal, any basis for disciplinary action not previously presented to the employee by the employer.

19. HEARINGS

19.01 HEARINGS--APPEALS.

19.01.01 Any regular employee who is removed, demoted, suspended or discharged may appeal such action to the Commission.

19.01.02 Any employee who is alleged to be probationary by the disciplining department may only appeal to the Commission the questions of probationary status and whether the procedures for discharge of probationers, as found in these rules, were properly followed.

19.01.03 Any employee who is adversely affected by an alleged violation of Civil Service may appeal such violation to the Commission.

19.03 APPEALS--TIME--FORM. A notice of appeal shall be filed at the Commission offices within fourteen (14) days of the action that is the subject of the appeal. The notice of appeal shall be in writing and include the mailing address and street address where service of process and other papers may be made upon the appellant. The notice of appeal shall also contain a brief description of the facts giving rise to the appeal and a concise statement of the reason for the appeal. Forms provided by the Commission may be used for such notice but are not required.

19.05 EXHAUSTION OF ADMINISTRATIVE REMEDIES.

19.05.01 If the employee exhausts the available administrative procedures and continues to believe that good cause has not been shown, the employee may within fourteen (14) days after the final step of the procedure request the Secretary to return the appeal to the Commission for hearing.

19.07 AUTHORITY OF SECRETARY-CHIEF EXAMINER AND STAFF.

19.07.01 The Commission or any Hearing Officer retained by the Commission shall have the authority to make orders of preliminary matters, including motions for discovery and to compel discovery, continuance, protective orders, and other similar matters. Such orders may be appealed to the Commission. The Secretary/Chief Examiner may also conduct pre-hearing settlement conferences (in order to encourage resolution of contested matters), issue subpoenas, and note depositions.

19.07.02 The Commission may authorize the Secretary/Chief Examiner to investigate any reports or appeals relating to the enforcement or application of the Civil Service or those rules which do not involve a disciplinary proceeding. The staff shall report the results of the investigation to the Commission in an open meeting. On the basis of such report, the Commission shall either dismiss the report or appeal as being without basis, or set the matter for a full hearing.

- 19.07.03 As an aid to investigations authorized by the Commission, the Commission or its Hearing Officer may issue subpoenas for any documents that would be discoverable for purposes of hearing preparation and may authorize depositions of any person who may have relevant knowledge. Depositions so taken shall be kept as part of the records of the Commission.
- 19.09 APPEALS--INITIAL REVIEW. The Hearing Officer shall review all appeals to determine whether the employee has timely filed an appeal and whether the action appealed is a final action. Upon a determination that the appeal is not timely, the Hearing Officer shall make a recommendation to the Commission, which shall act following an opportunity for the parties to be heard.
- 19.11 APPEALS--NOTICE OF HEARING. Upon receipt of a notice of appeal, the Secretary/Chief Examiner shall forward a copy of the notice to other affected parties. As soon as possible thereafter, but in any event within ten (10) days, a prehearing conference shall be set before the Commission and its Hearing Officer with each party to be afforded not fewer than twenty (20) days notice of such hearing. Subsequent hearings on the same appeal shall have seven (7) day's notice unless waived by the parties. All parties may agree to waive the notice provisions and time limits provided by this section.
- 19.13 APPEALS--AUTHORITY OF DEPARTMENT. The exercise of jurisdiction by the Commission over a matter does not preclude the party from withdrawing, modifying or otherwise compromising the matter prior to the matter going to hearing. Upon resolution of a matter prior to hearing, any party may request the dismissal of the matter. A stipulation signed by both parties should be submitted to the Commission prior to such dismissal.
- 19.15 SERVICE OF PROCESS--PAPERS.
- 19.15.01 The Secretary/Chief Examiner shall cause to be served all orders, notices, and other papers issued by the Commission, together with any other papers that the Commission is required by these rules to serve. Every other paper shall be served by the party filing the notice, document, or paper.
- 19.15.02 All notices, documents or papers served by either the Commission or a party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers shall be by personal service, by registered or certified mail, or by regular mail with written acknowledgement of such mailing attached to the papers so served. Written acknowledgement shall be by affidavit of the person who mailed the papers or by certificate of any attorney, Secretary/Chief Examiner.
- 19.15.03 Service upon parties shall be regarded as complete when personal service has been accomplished or by mail (certified U.S. or hand delivered), upon properly stamped and addressed deposit in the mail system.
- 19.15.04 Papers required to be filed with the Commission shall be deemed filed upon actual receipt of the papers by the Commission staff at the Commission office. All papers, except the original appeal notice, shall be served with the original and four copies. Briefs and memoranda must be filed with the

Commission at least three (3) business days prior to any hearing involving matters discussed in said brief or memoranda. Documentary evidence is not required to be filed but, rather, provided at the hearing.

- 19.15.05 An appellant or petitioner is responsible for notifying the Commission in writing of any change in mailing or street address and telephone number. Failure to so notify the Commission shall constitute a waiver of service and notice under these rules.

19.17 DISCOVERY.

- 19.17.01 Parties to a proceeding are required to provide to each other reasonable access and discovery to all relevant information concerning the matter before the Commission. Any questions concerning relevancy or access shall be resolved by order of the Hearing Officer.
- 19.17.02 Upon the failure of any party to comply with an order of the Hearing Officer compelling discovery, the Secretary shall schedule the matter before the Commission for review and determination of appropriate sanctions.

19.19 SUBPOENAS.

- 19.19.01 Every subpoena shall identify the Commission and the title of the proceedings, if any, and shall command the person to whom it is directed to attend, at a specified time and place, and give testimony or produce designated books, documents, or things under that person's control.
- 19.19.02 Upon application of any party or his/her representative, the Secretary shall issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The party requesting the subpoena is responsible for having said subpoena properly served. Such requests for subpoenas shall be submitted to the Commission offices at least three (3) business days prior to the hearing.
- 19.19.03 Service of a subpoena shall be made by serving a copy of the subpoena on the person named therein.
- 19.19.04 The person serving the subpoena shall make proof of service by filing the subpoena at the Commission office, and if such service has not been acknowledged by the witness, the person serving the subpoena shall make an affidavit of service. Failure to file proof of service does not affect the validity of service.
- 19.19.05 Upon a motion promptly made by a party or by the person to whom the subpoena is directed, and upon notice to the party on whose behalf the subpoena was issued, the Commission may:
- (1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or

- (2) Condition denial of a motion to quash or modify upon just and reasonable conditions.

19.21 **BURDEN OF PROOF.** At any hearing on appeal from a demotion, suspension or termination, the disciplining authority shall have the burden of showing that its action was in good faith for cause. At any other hearing, the petitioner or appellant shall have the burden of proof by a preponderance of the evidence.

19.23 **EVIDENCE.**

19.23.01 Subject to other provisions of these rules, all competent and relevant evidence shall be admissible. In passing upon the admissibility of evidence, the Commission shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in the superior courts of the State of Washington.

19.23.02 A witness in any hearing may be examined orally, under oath or affirmation and shall be subject to cross-examination by opposing parties and the Commission.

19.23.03 When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The Commission may exclude inadmissible evidence and may order cumulative evidence discontinued in its discretion, either with or without objection. A party objecting to the introduction or exclusion of evidence shall state the grounds of such objection at the time such evidence is offered or excluded. No such objection shall be deemed waived by further participation in the hearing.

19.23.04 At any hearing before the Commission when documentary exhibits are to be offered into evidence, copies shall be furnished to the opposing party, to each Commission member, the Hearing Officer and to the Secretary/Chief Examiner.

19.23.05 Parties are encouraged to stipulate to the admissibility of documentary exhibits. To further this end, parties will make request of other parties for such stipulation no later than three (3) business days in advance of the hearing, barring unusual circumstances. The party of whom the request is made shall respond no later than one (1) business day prior to the hearing.

19.23.06 An employee has the right to appear before the Commission with or without counsel and to be heard in his or her defense.

19.25 **DELIBERATION.** The Commission may deliberate in closed (executive) session when taking a disciplinary or other quasijudicial case under advisement. Deliberations by the Commission shall otherwise be subject to Chapter 42.30 RCW. No person other than the Hearing Officer, Secretary/Chief Examiner, and/or legal counsel to the Commission shall be present during deliberation. No person shall attempt to convey any information or opinion to the Commission concerning any matter on appeal, other than in open hearing.

- 19.27 **DECISION.** In any appeal, the Commission shall issue a decision, including findings of fact, conclusions of law, and an order, to each party or counsel of record for each party. A decision shall normally be issued within fourteen (14) days of the close of the hearing of an appeal or other proceeding heard by the Commission. The Commission may extend the time for decision following written notice to the parties.
- 19.29 **REMEDIES.** The Commission may issue such remedial orders as deemed appropriate.
- 19.31 **RECONSIDERATION.** A party may move for reconsideration by the Commission only on the basis of fraud, mistake, or misconception of facts. Such motion must be filed with the Commission within ten (10) days of the decision of the Commission. Such motion for reconsideration shall be decided on affidavits, absent special showing that testimony is necessary.
- 19.33 **WAIVER.** Upon stipulation of all parties to a proceeding, and upon a showing that the purposes of the rules, policies or ordinances of the City would be better served, the Commission may waive the requirements of any of these rules.

20. RETIREMENT AND DISABILITY

20.01 **RETIREMENT.** Employees of the City who are members of pension fund systems as provided by law shall be retired on account of age/service or disability in accordance with the pertinent provisions of law.

20.02 **REINSTATEMENT AFTER DISABILITY RETIREMENT.**

20.02.01 **PROCEDURE.** The Commission shall review any report from the Appointing Authority or a retirement system showing that a former employee who is on disability retirement has regained his health to the extent employable. Upon certification from the Appointing Authority that the former employee is fit for duty, the Secretary/Chief Examiner shall:

- (a) Order return of the employee to an open position in former employment status as if a leave of absence had been granted; or
- (b) Place the name on the reinstatement register for an available class and department if no opening exists.

20.02.02 **EFFECT.** The name of an employee who is employable but not fully recovered shall be placed on the most advantageous reinstatement register for the same department, for an equivalent or lower class comprised of duties the employee is competent to perform, as determined by the Department and in concurrence with the Commission. Prior to reinstatement, the former employee shall be subject to a background investigation and other testing by the Appointing Authority that would be applicable to a new hire in such position. The Appointing Authority may decline to hire the former employee for good cause shown. If such an employee's name is placed on a reinstatement register, service credit acquired previous to retirement shall be continued. The employee shall be reinstated from such register and transferred or reduced in grade according to rules. Eligibility rights shall not expire as prescribed in case of layoff. Any reinstatement in a class other than that in which last employed shall not result in a promotion. The employee shall be subject to a new probationary period if absent longer than one (1) year.

20.02.03 **DISCHARGE FOR CAUSE--EXCEPTION.** The provisions of this rule shall not apply in the event an employee is discharged from the service for cause, whether or not the employee receives a disability retirement.

21. MISCELLANEOUS

21.01 REPEALS AND SAVINGS. All matters shall be subject to these rules, and to that extent, all previous Civil Service rules are hereby repealed.

21.03 COMPUTATION OF TIME.

21.03.01 Any period of time except for the stated period of time set forth in Rules 19.03 and 19.11 may be extended by the Secretary/Chief Examiner for no more than fourteen (14) days upon written notice to the Commission and a showing of good cause. The motion for extension of time must be filed with the Commission offices prior to the running of the applicable time period.

21.03.03 The date of notice for purpose of these rules shall be the date on which notice of an action is posted in the Commission's office; (a) as provided in these Rules; or (b) is mailed or (c) delivered personally to a party to a proceeding.

21.03.05 COMPUTATION OF TIME. In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a City legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a City legal holiday. When the period of time prescribed or allowed is fourteen (14) days, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. When the period of time prescribed or allowed is ten (10) days or less, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

21.03.07 Unless specifically provided otherwise, "day" shall mean calendar day.

Adopted January 1999.

Amended November 1999 - Sections 4.60, 4.61, 7.04 + subsections, and 10.05.01.

Amended July 2000 - Section 11 – Probation

Amended May 2001 — Section 4 – Definitions 4.17, 4.36, 4.86 (new), 4.90
Sections 7.01.03, 8.03, 8.07.01, 8.29.06 (new)
8.39.01, 9.01.01 & 02, 9.14 (new), 10.05.01

Amended October 2005 - Sections: Many sections: See Official File for particulars.

Randy Woolery, Chairman

Dan Knadle, Commissioner

Robert Wilcox, Commissioner