

# **RULES AND REGULATIONS**

## **CITY OF GIG HARBOR CIVIL SERVICE**

**JULY, 2004**



**RULES AND REGULATIONS  
CITY OF GIG HARBOR CIVIL SERVICE  
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Exhibits:

- Exhibit 'A'    Veteran's Preference in Examinations - RCWs
- Exhibit 'B'    Gig Harbor Municipal Code - Chapter 2.22
- Exhibit 'C'    Job Classification Descriptions

# 1. GENERAL PROVISIONS

## 1.01 AUTHORITY AND APPLICATION

These rules are promulgated pursuant to the authority granted by Chapter 2.22 of the Gig Harbor Municipal Code to the Civil Service Commission. These rules are applicable to proceedings before the Civil Service Commission and should be read in conjunction with the specific provisions of the GHMC Chapter 2.22, indexed in this document.

## 1.03 SCOPE AND PURPOSE

These rules govern the continuing administration of the Civil Service System of the City of Gig Harbor. The purpose of these rules is to assure that the Civil Service system in the City is administered in accordance with the City of Gig Harbor ordinances, and that all proceedings before the Commission are conducted in an orderly, fair and timely manner.

## 1.05 PRESUMPTION OF VALIDITY

The Civil Service System implemented by these rules substantially accomplishes the purpose of chapters 41.08 and 41.12 RCW. These rules are presumed to be valid and shall be upheld unless in direct conflict with chapters 41.08 and 41.12 RCW.

## 1.07 SEVERABILITY

If any rule, section, paragraph, sentence, clause, phrase or word of these rules is declared unconstitutional, illegal, or void for any reason, such decision shall not affect the validity of the remaining portions of these rules. The Commission hereby declares that it would have prescribed and adopted these rules, and each rule, section, paragraph, sentence, clause, phrase and work hereof, regardless of the fact that any one or more rules, sections, paragraphs, sentences, clauses, phrases or words be declared unconstitutional, illegal, or void.

## **2. DEFINITIONS**

### **2.01 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.

### **2.03 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.

### **2.05 APPLICANT**

Anyone who has filed an application to take a civil service examination.

### **2.07 APPOINTING AUTHORITY**

The person, group of persons, board, commission or council vested with the power and authority to select, appoint, or employ any person to hold any office, place, position or employment with the City of Gig Harbor subject to Civil Service.

### **2.09 APPOINTMENT - REGULAR**

The appointment of a certified eligible.

### **2.11 APPOINTMENT - TEMPORARY**

An 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.

### **2.13 ASSIGNMENT**

An employee may be assigned to a position which carries additional salary and additional limited responsibilities and is within the scope of the specifications for the class from which assignment is made.

### **2.15 SERVICE**

A separation from civil service status with a loss of accumulated service credit as occasioned by a "quit," "resignation," "termination," or "service retirement."

### **2.17 BUSINESS DAYS**

Calendar days exclusive of Saturdays, Sundays, and legal holidays. (See City of Gig Harbor Personnel Policy for list of holidays.)

### **2.19 CANDIDATE**

Any applicant who has completed, or is in the process of completing, a civil service examination.

2.21 CERTIFICATION

A list of names from an eligible register transmitted by the Civil Service commission to an appointing authority from which such appointing authority may fill a vacancy.

2.23 CERTIFY

Verify to the appointing authority that a list of names of candidates for employment has been selected from the list of persons tested and found eligible for employment.

2.25 CITY

The City of Gig Harbor.

2.27 CLASS

A 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.

2.29 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).

2.31 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.

2.33 COMMISSION

The Civil Service Commission. The term Commissioner means any one member of said Commission.

2.35 CONTINUOUS SERVICE

Employment without interruption, except for absences on approved leave or absence to serve in the armed forces of the United States.

2.37 DEMOTION

The removal of an employee from a higher to a lower class because of incapacity, inefficiency, misconduct or other similar causes.

2.39 DEPARTMENT HEAD

Chief of Police.

2.41 ELIGIBLE

Anyone qualified for a given class through examination and placed on the proper eligible register; also "certified eligible."

2.43 ELIGIBLE REGISTER

A list of successful examinees for a given class from which certification may be made to fill vacancies in such class.

2.45 EMPLOYEE

Anyone holding a position in the Civil Service System of the City of Gig Harbor.

- a. EMPLOYEE - REGULAR. Any employee who has been appointed from a certification and who has satisfactorily served the full probationary period.
- b. 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.
- c. 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.
- d. EMPLOYEE - PROBATIONARY - NEW. A person appointed from a certification who has not yet completed one year of continuous service after completion of academy.
- e. EMPLOYEE -PROBATIONARY -LATERAL. A person appointed from a certification who has not yet completed one year of continuous service from date of hire.
- f. EMPLOYEE -PROBATIONARY - PROMOTION. A person promoted from a certification who has not yet completed one year of continuous service from date of promotion.
- g. EMPLOYEE -REGULAR. A regular employee is the only employee with rights under Rule 16.01.

2.47 EXAMINATION

The process of testing the fitness and qualifications of applicants for positions in a specific class.

- a. EXAMINATION - OPEN GRADED. An examination open to any member of the public meeting the requirements as stated in the official bulletin announcing such examination.

- b. EXAMINATION - PROMOTIONAL. An examination limited to persons meeting the requirements stated in the official bulletin announcing such examination.
- 2.49 INTERESTED PARTY  
A person who has a clear legal or equitable right in any civil service affair, matter or proceeding and whose interest is immediate and substantial and not nominal or remote.
- 2.51 LAYOFF  
Separation from a permanent position because of economy, lack of funds. Lack of work or because the position has been abolished.
- 2.53 OFFICIAL BULLETIN  
The examination announcement containing basic information about the class positions, the requirements for filing, how to apply, and other pertinent information which is posted in the Commission's office and in other suitable locations.
- 2.55 OFFICIAL NEWSPAPER  
The newspaper designated as official by the City, or as otherwise designated by the Commission.
- 2.57 PERSONAL PRONOUN  
The personal pronoun of the masculine gender shall apply equally to the feminine gender when appropriate.
- 2.59 POSITION  
Any group of duties and responsibilities in the service of the City which one person is required to perform as full- or part-time employment.
- a. POSITION -REGULAR. A 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.
- 2.61 PROBATION OR PROBATIONARY  
This trial 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 prior to certification to regular employment.

- a. PROBATION - ENTRY-LEVEL. The status of an entry-level employee during a trial period following completion of academy.
- b. PROBATION - LATERAL HIRE. The status of a lateral hire during a trial period following one year from date of hire.
- c. PROBATION -PROMOTION. The status of a person promoted following one year from date of promotion.

2.63 QUIT

Any voluntary separation of an employee from the City service without acceptance of a resignation by the appointing authority.

2.65 REDUCTION

The removal of an employee from a higher to a lower class in lieu of layoff or for other reasons not associated with demotion. Such reduction may be at the employee's request with the concurrence of the appointing authority and the Commission.

2.67 REGISTER

A list of candidates or 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 2.43. "Eligible Register."

2.69 REINSTATEMENT

Reinstatement of an employee to a position in a class in which he was a regular employee.

2.71 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 capable mentally and physically for reinstatement.

2.73 RESIGNATION

A written request by an employee for separation from a class or from the city service. To be valid, such request must show written approval of the appointing authority.

2.75 SECRETARY

Secretary and Chief Examiner as defined in Rule 4.

2.77 SENIORITY

The total amount of continuous service, less any break in service in positions of a specified class or total amount of actual service in the class if reemployed. For purposes of layoff in a lower class, seniority in such class shall include any service in a higher class in the same class series.

2.79 STANDING - REGULAR

The civil service status & a regular employee.

2.81 SUSPENSION

Temporary removal of an employee from employment with or without pay, for cause.

2.83 TERMINATION

Separation, dismissal, or removal from the service for cause.

2.85 VETERAN'S PREFERENCE

Preference in examinations and employment, based on military service, as provided and defined pursuant to Title 41.04 RCW.

### **3. ADMINISTRATION AND OPERATIONS**

#### **3.01 COMMISSION - MEETINGS - QUORUM**

In the necessary conduct of its work, the Commission shall meet on the second Tuesday of each month at 8:00 a.m. in the City Hall Conference Room, 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).

#### **3.03 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 term, the Commission, upon appointment of a new member, shall proceed to the election of a new chair and/or vice chair.

#### **3.05 RULES OF ORDER**

Roberts Rules of Order shall be final authority on all questions of procedure and parliamentary law not otherwise provided by these rules.

#### **3.07 COMMISSIONERS – CHALLENGE**

Any challenge to a commissioner sitting at a hearing based upon an alleged conflict of interest or appearance of fairness violation shall be made by an interested party prior to the commencement of a hearing. All challenges shall be resolved based upon conflict of interest rules and the appearance of fairness doctrine, as codified in Chapter 42.36 RCW and/or interpreted by the courts of this state. The challenged commissioner shall review the challenge and make a determination as to whether he or she can continue to sit prior to proceeding with the hearing. The decision of any individual commissioner as to a challenge shall be reviewable by the entire commission, whose decision on the matter shall be final. Upon a finding of cause for disqualification, the challenged commissioner shall take no part in 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 to a party prior to commencement of a hearing.

3.09 COMMISSIONERS - CHALLENGE – NECESSITY

If, as a result of disqualification(s) pursuant to Rule 3.07, 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.

3.11 OFFICE - HOURS

The office address of the Civil Service Commission is:

Civil Service Commission City of Gig Harbor  
3510 Grandview Street Gig Harbor, WA 98335

The regular office hours of the Commission Secretary shall be 9:00 a.m. to 4:00 p.m., Monday through Friday.

3.13 PUBLIC RECORDS

Public records of the Commission shall be available for inspection and copying during the regular office hours of the Commission Secretary. No fee will be charged for inspection of public records. Inspection will be during office hours in a space provided by the Commission Secretary and under her 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 made available to the public for free in accordance with RCW 41.08.040 and 41.12.040.

3.15 RECORD OF PROCEEDINGS

The Commission shall keep minutes of its proceedings. The record of the Commission shall not include a written verbatim report of proceedings unless ordered by the Pierce County Superior Court. The Commission may retain a court reporter to record all or part of a proceeding. In addition, a party to a proceeding, at his own expense, may have a court reporter record all or part of a proceeding. On appeal or review by the court, costs of transcription shall be paid by the appellant and final cost recovery by the prevailing party shall be awarded at the discretion of the reviewing court. Upon appeal or review by the court, transcription and certification of a record of proceedings shall be arranged by the Secretary.

3.17 REPORTS - APPLICANT, ELIGIBLES, EMPLOYEES

- a. Each applicant, eligible and employee shall keep the Commission informed, by written notice to the Secretary, of his current address and telephone number, and shall report any change of name through marriage or otherwise.
- b. Each eligible shall keep the Secretary informed, in writing, regarding availability and any refusal to accept appointment or promotion and the reasons therefore.

3.19 REPORTS - DEPARTMENT HEAD

The Chief of Police shall immediately report to the Secretary in such way and on such forms as the Secretary may prescribe:

- a. Every appointment, promotion, demotion, reduction, layoff, reinstatement, suspension, leave of absence without pay;
- b. Every separation from the service with the reasons therefore;
- c. Every refusal or failure to accept appointment by a person whose name has been certified.

#### **4. SECRETARY AND CHIEF EXAMINER**

##### **4.01 SECRETARY AND CHIEF EXAMINER – APPOINTMENT**

A Secretary and Chief Examiner (hereafter "Secretary") shall be appointed by the Commission. The Secretary appointed by the Commission shall in addition to acting as Secretary of the Commission:

- a. Be the executive officer and responsible to the Commission;
- b. Keep the minutes and other records of the Commission, and certify to the same when required;
- c. Administer and make effective the provisions of these Rules, establishing such administrative controls as may be necessary;
- d. Make recommendations relative to matters of policy and for necessary amendments to these Rules;
- e. Report to the Commission from time to time as directed concerning the details of her work;
- f. Prepare the budget for the Commission, approve accounts and administer generally the expenditure of funds appropriated for the operation of the Commission.
- g. Order, prepare or cause to have prepared, and conduct all examinations:
  - (1) Determine the examination to be conducted;
  - (2) Prepare and cause to have posted bulletins announcing examinations;
  - (3) Plan and/or prepare or cause to have prepared the questions to be used in each examination, together with the standards or key answers.
  - (4) Determine that minimum qualifications are met by the applicants, pass upon all questions relating to the eligibility of applicants, the examination, extensions of time and all questions arising during the course of an examination, subject to appeal to the Commission as provided herein;
  - (5) Grade or cause to be graded the examination papers and the qualifications of applicants, and establish a list of those who have passing grades;
  - (6) Prepare a complete report of each examination for submission to the Commission, together with a report on all appeals from his rulings or appeals from any part of the examination.
  - (7) In performing any of the above duties, the Secretary is allowed to use the services and advise of a qualified professional consultant.

- h. Certify in the name of the Commission payrolls or accounts in accordance with the State Law;
- i. Conduct investigations and inspections as the Commission deems necessary and report findings to the Commission.
- j. Perform all other functions necessary for the proper carrying out of these Rules and the provisions of City ordinances relating to the civil service, and such additional duties as may be assigned to him or her from time to time by the Commission.

4.03 CODIFICATION AND PUBLICATION OF REGULATIONS

The Secretary shall have the power and authority to codify, organize and classify all rules and regulations (of the Civil Service commission in a logical, orderly and systematic manner, which shall be properly indexed and shall cause the same to be printed and published together with all amendments thereto, regularly as they are made, to be made available to the public generally pursuant to RCW 41.08.040 and 41.12.040.

4.05 REVIEW OF AND APPEAL FROM ACTIONS OR DECISIONS - SECRETARY

- a. The Commission on its own motion may review or modify any action or decision of the Secretary.
- b. Any person adversely affected by any action or decision of the Secretary 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) working days from the date of notice of such action unless established otherwise in these rules. The Commission shall then, if in its opinion good cause is shown, conduct a hearing upon the matter.

## **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 the Commission determines, by unanimous vote of all commissioners present that the needs of the service require immediate adoption, amendments to these rules shall be first discussed in an open regular or special meeting at least one meeting prior to adoption. Upon a determination that the needs of the service require immediate adoption, a rule amendment may be adopted at the meeting at which the amendment is first proposed.

### **5.03 ACTIVE 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 each affected department of the city and appropriate persons. 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 statutes and ordinance. No employee shall have a property interest in or as a result of these rules. These rules, and rules the Commission n may enact, regulate the mode and appointment of tenure in the civil service, and employees are subject to these rules and amendments thereto.

## **6. SUBSCRIPTION TESTING SERVICES**

### **6.01 SUBSCRIPTION TESTING SERVICES AUTHORIZED**

The Secretary, following approval by the Commission, may enter into contracts with one or more Subscription Testing Services.

### **6.02 SUBSCRIPTION TESTING SERVICE – DEFINED**

“Subscription Testing Service” means a person or organization offering a service that tests and maintains lists of candidates for employment who have successfully completed the Subscription Testing Service process.

### **6.03 PROCESS VERIFICATION**

The Secretary shall verify that the Subscription Testing Service provides qualified testing resources that are content valid and job-related and that they comply with all state and federal discrimination laws.

### **6.04 CERTIFICATION**

- a. All applicants certified as a qualified candidate by the Subscription Testing Service shall be reviewed and approved by the Commission prior to referral to the appointing authority. Following qualification of candidates pursuant to the procedure set forth in the contract with the Subscription Testing Service, candidates may be certified as eligible for appointment to the Appointing Authority.
- b. By motion or other approval, the Commission may delegate to the Secretary the review and approval of candidates. Upon such delegation, the secretary shall verify that candidates for placement on the eligible register meet the minimum eligibility requirements for employment.
- c. Candidates qualified for appointment pursuant to the procedures established in this Rule shall be placed on the register in the same rank and order as lists maintained by the Subscription Testing Service. Provided, however that candidates rejected by the Commission for 1) not satisfying any test requirement; 2) not completing probation; or, 3) following certification, not responding to the appoint authority for consideration, shall be removed from the eligible register.

### **6.05 ADDITIONAL TESTING**

Candidates qualified pursuant to a Subscription Testing Service shall be subject to such additional testing as may be required by the Commission or the appointing authority. Such testing shall include, but not be limited to, background, polygraph, psychological, medical, and oral board testing.

## **7. APPLICATIONS AND APPLICANTS**

### **7.01 GENERAL REQUIREMENTS FOR FILING APPLICATIONS**

- a. All applicants for examination for positions in the classified Civil Service must file written application on a form prescribed by the Secretary; and no one can be admitted to any examination without having first filed an application on the proper form, giving fully, truthfully, and accurately all information required.
- b. In order to file an application for examination, the applicant must:
  - (1) Meet the minimum requirements specified in the official examination bulletin as of the closing day of the official filing period; and
  - (2) Produce evidence of education, training, experience, or any lawful requirement for a class, as directed by the Secretary.
- c. Time for filing applications:
  - (1) All applications for examination shall be filed with the Secretary during office hours and with the time limit fixed in the official announcement of examination. Applications received by mail in the office of the Commission must be postmarked on or before the closing date.
  - (2) The time for filing applications may be extended by the Secretary as the needs of the service require; provided that the examination shall then be re-advertised in the official newspaper of the city and in any other places where originally advertised.

### **7.03 APPLICATIONS FOR PROMOTIONAL EXAMINATIONS**

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 so that a candidate who does not yet qualify, but will qualify during the terms of an eligibility register, may take the examination.

### **7.05 SPECIAL REQUIREMENTS**

The Commission, at the request of the appointing authority, may prescribe such limits and such other specific requirements, physical or otherwise, as required by and related to the work to be performed.

### **7.07 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;

- a. Does not meet the requirements set forth in these rules or in the bulletin announcing the examination;
- b. Is physically or mentally unfit to perform the duties of the position sought;
- c. Has made any material false statement or has attempted any deception or fraud in connection with this or any other civil service examination;
- d. Fails to appear for fingerprinting or other investigation as required;
- e. 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;
- f. After notification, did not promptly appear at the time and place designated for the examination;
- g. Such actions contemplated by this rule may also be taken for other material reasons.

See Rule 4.05, "Review of and Appeal from Actions or Decisions of the Secretary."

7.09 DEBARMENT FROM EMPLOYMENT

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 whatever for or on account of such actual or prospective advantage, shall be subject immediate termination and shall be ineligible for any further employment in the Civil Service.

7.11 NOTICE OF NON-ACCEPTANCE

Anyone against whom action is taken under Rule 7.09 shall be notified promptly by the Civil Service Commission of the Reasons therefore by either oral notice at time of filing the application and/or written notice mailed to the applicant or eligible.

7.13 ADMISSION TO EXAMINATION PENDING APPEAL

The Secretary 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.

7.15 AMENDMENT OF APPLICATION

The Secretary may permit any applicant, before or after acceptance of the application form, to amend the application or to file an amended application.

7.17 APPLICATIONS NOT RETURNED

All applications when completed and filed become the property of the Commission and thereafter may not be returned to the applicant.

7.18 APPLICATION FEE

As published in the official bulletin.

## **8. EXAMINATIONS**

### **8.01 ORDERING EXAMINATIONS**

The Commission shall order an examination whenever it is deemed to be in the best interest of the City. The Secretary shall administer examinations as provided by these rules.

### **8.03 EXAMINATION ANNOUNCEMENT**

Public notice of examinations shall be given by the Secretary in the official newspaper at least ten (10) business days preceding such examination and in any other publications which the Secretary may direct. The official bulletin shall be posted at the City of Gig Harbor Civic Center, on the city's website, the Police Department and at least two other public locations. Promotional examination notices shall be posted in Gig Harbor Civic Center and in the Police Department offices not less than thirty (30) calendar days preceding the examination.

### **8.05 AMENDMENTS TO ANNOUNCEMENTS**

The Secretary may amend any published announcement with appropriate public notice.

### **8.07 CONTINUOUS EXAMINATIONS**

- a. A continuous or periodic examining program may be ordered and administered by the Secretary, as directed by the Commission, for any class of positions for other than promotional examinations. The consolidated eligibility register provided for in this rule shall be used only where the examinations taken by all eligibles on the register are the same or substantially the same, as determined by the Commission. 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 examination shall be entered on the eligible register and certifications for appointments shall be made in the same manner as from any eligible register. Names of eligibles from successive examinations in the same program shall be entered on the eligible register for the class at the appropriate places as determined by final grades without regard to priority of tests. Names may be withheld from certification or removed from such eligible registers in the same manner and for the same reasons as from any eligible register.
- b. To expedite certification and appointment and to maintain security of examination materials, 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.

- c. Except as provided above, the rules applicable to other examinations shall apply to continuous and periodic examinations.

#### 8.09 COMPETITIVE EXAMINATIONS

All examinations shall be competitive when applicants are tested as to their relative qualifications and abilities or when applicants are scored against a fixed standard. Examinations shall be open to all qualified applicants, provided that the number of applicants permitted to take examinations may be limited as follows:

- a. Whenever the appointing authority determines that restricting the examination to applicants who have previous work experience with the Department through employment or volunteer in the best interest of the City, will not violate the City's equal employment opportunity policy, and that sufficient applicants will be available from such group to insure a competitive examination, the examination shall be restricted to such applicants by order of the Commission;
- b. Upon recommendation of the appointing authority, the Commission may set a maximum number of applicants permitted to take the written portion of any examination to the greatest number that can reasonably be tested in light of the available testing facilities, funds and time available for administering and grading the examination, which in any event shall not be less than 75 applicants.
- c. The commission, upon recommendation of the appointing authority, may limit the maximum number of applicants permitted to take the physical and/or oral portions of any examinations which follow the written portion of the examination, to the maximum number which can reasonably be accommodated in light of the facilities, time and funds required to administer and grade such examinations, which in any event shall not be less than 10 applicants.
- d. When a limit has been set upon the number of applicants permitted to take the written examination, priority shall be established by the date and time of filing of a complete application, including payment of any required fee. When a limit has been established upon the number of applicants permitted to take the physical and/or oral portions of any examination, priority of applicants shall be determined according to the grade earned on the written portion of the examination. In the case of a tie score on the written portion of the examination, when necessary the date and time of filing of a complete application and payment of all required fees shall be used in applying the limit upon the number of applicants permitted to take the test. Such limitations shall be made prior to the giving of notice of the examination and shall be set forth in all notices of the examination.

#### 8.11 CONTENT OF EXAMINATIONS

Examinations may include written tests, personal qualifications, physical or performance tests, or evaluations of training and experience, interviews, or 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 embrace two or more parts to which percentage weight shall be assigned, which weights shall total 100%. Each part shall be graded independently. This grade shall be multiplied by the percentage of the weighted average. Applicants will be informed in the application materials of the relative weights of each examination.

#### 8.15 PASSING GRADES

- a. In its discretion, the Civil Service Commission may establish a minimum passing grade for entry examinations, exclusive of veteran's credit, if any. In order to conserve financial resources, the Commission may also establish a numerical cut off for candidates based on written test scores, thereby limiting the number of candidates forwarded for physical agility or other testing process, The passing grade shall be established with reference to minimum qualifications required for an applicant and after consideration of the advice of the person or persons who prepare the test.
- b. At the direction of the Commission and based upon the advice of the person or persons who have prepared the examination, the Secretary may set a minimum score to be required in any part of any entry examination and any applicant who fails to attain such minimum score shall be considered as having failed in the entire examination and shall not be entitled to take the balance of the examination or, when all parts of the examination have been applied, any applicant who fails to obtain such minimum score on any part shall be considered as having failed in the entire examination and any remaining parts of the examination need not be scored.
- c. When a minimum score is required for an examination or any part it shall be stated in the official bulletin and announced at the time of examination.

#### 8.17 PROMOTIONAL EXAMINATION

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 a department is

essential to the proper filling of the vacancy, the Commission may limit an examination to a promotional within a department only, provided that sufficient persons within a department are qualified.

8.21 OPEN GRADED EXAMINATION

An examination maybe advertised as open graded when, in the judgment of the Commission, it is in the best interest of the service.

8.23 VETERAN'S CREDIT

Veterans who have passed an examination, shall be entitled to credit pursuant to Chapter 41.04 RCW. A copy of pertinent provisions of Washington State law relating to veterans' preference in employment is attached in the Appendix to these rules. No other credit shall be given.

8.25 EXAMINATION PROTEST

- a. 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) business days immediately following the administration of such part, or within the time limit specified on the examination instruction sheet.
- b. 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 ten (10) business days after the notices of results have been mailed.
- c. Any against scoring protest or any allegation of clerical error in the final results of an examination must be filed in writing within ten (10) business days after the notices of results have been mailed.
- d. 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.

8.27 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.

8.29 EFFECTIVE DATE OF EXAMINATION RESULTS

Results of an examination shall become effective on the date official notice thereof is posted on the Gig Harbor City bulletin board.

### 8.31 REEXAMINATION

- a. No one shall be reexamined for the same class within six months of the effective date of such examination, unless authorized by the commission upon determination that it would be in the best interest of the City.
- b. 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.

### 8.33 EXAMINATION PAPERS

Examination papers of each eligible shall be kept on file in the office of the Commission until the expiration of eligibility.

### 8.35 ADDITIONAL EXAMINATION

- a. Eligibles certified pursuant to Rule 10 shall be subject to medical, physical, or psychological examination and to such other examinations, as specified in the official bulletin and as authorized and approved by the Commission. Such other examinations include, but are not limited to, background examination and polygraph. Reports of such examinations shall be filed with the Commission in the event the findings of the examination lead to a recommendation that the eligible be rejected. The commission shall consider such recommendation, may require further examination, and may order the eligible's name dropped from the eligible register.
- b. The Secretary may designate a limited number of certified eligibles for additional examination as provided in Rule 8.35(a), in order to maintain an ability to certify registers pursuant to Rule 10.

## 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 for successful candidates shall be ranked as follows:

- a. On a promotional register: relative rank shall be determined by the examination rating or grade, plus any additional points or percentage allowed by law for veterans, preference.
- b. On a register resulting from an open graded examination: relative rank shall be determined by the examination grade, plus percentage allowed by law for veterans' preference.
- c. Priority of time of examination shall not give any preference in rank on the register.
- d. The preference in rank of eligibles having equal, final general averages shall be determined as follows, in the order stated:

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

(a) 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.

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

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

(2) By lot.

- e. If an applicant is permitted to file for and take an examination for delayed be held in abeyance until the candidate meets the requirements for eligibility, 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 RETURN TO REGISTER FOLLOWING LAY OFF

On lay off, an employee's name shall be placed upon the proper eligible register for the class, according to their seniority at the time of lay off, for one year from the date of such lay off.

9.05 RETURN TO ELIGIBLE REGISTER AFTER RESIGNATION OR RETIREMENT

- a. 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.
- b. Any requests for return to register following resignation or retirement must be supported by written recommendation of the former employing department,
- c. A former employee whose eligibility is reinstated under this rule shall be certified according to Civil Service Rule 10.05. However, the name of such an eligible need be considered only by the department which recommends return of the name to the register.
- d. The name of a former employee who resigned or returned 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.

9.07 APPOINTMENT WITHOUT EXAMINATION

Except as provided in 9.03, 9.05, and 9.09, any return to the Civil Service shall be by examination only.

9.09 ESTABLISHMENT OF REINSTATEMENT REGISTERS

- a. 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 lay off.
- b. Upon the request of an appointing authority, the secretary may approve the certification of any one on such a reinstatement register as eligible for appointment on an open competitive basis in the department requesting certification.
- c. Any one on a reinstatement register who becomes a regular employee in another department shall lose reinstatement rights in the former department.

- d. Any one accepting a permanent appointment in the class from which laid off, and in a department other than that from which laid off, is not to be certified to the former department unless eligibility for that department is restored.
- e. Refusal to accept permanent work from a reinstatement register shall terminate all rights granted under this chapter; provided, no one shall lose reinstatement eligibility by refusing to accept appointment in a department other than the one from which laid off.

#### 9.11 DURATION OF ELIGIBLE REGISTERS

- a. If an applicant is permitted a delayed administration of an examination, and Civil Service Rules - Page 21 is successful in such examination, that applicant's eligibility shall expire with that of other eligibles from the same examination.
- b. In no event shall a register remain in force for longer than twelve (12) months, unless extended by the Commission at the request of a department head for only one additional twelve month period.
- c. No register shall remain in effect after promulgation of a register from a subsequent examination.
- d. An eligibility list may be terminated by a vote of the Commissioners based on the needs of service.
- e. Eligibility upon return of a name to an eligible register following resignation shall be for one year from such return.
- f. An employee who accepts a position in another class in the same department or accepts an appointment in another department, or is laid off, shall retain all earned eligibility for the periods provided for in Rule 10, except that if an appointment is accepted in another department (whether following a lay off or otherwise), continuation of the departmental promotional eligibility for the first department shall be at the option of that department.

#### 9.13 AVAILABILITY OF ELIGIBLES

- a. It shall be the responsibility of an eligible to notify the Secretary in writing immediately of changes in address, telephone number, change of name through marriage or otherwise, or any changes which may affect availability for employment.

- b. The name of an eligible who submits a written statement restricting the conditions under which available for employment, shall be withheld from certifications which do not meet the conditions specified. New written statements may be filed at any time within the duration of an eligible register modifying conditions under which employment would be accepted.

#### 9.15 CANCELLATION OF ELIGIBILITY

- a. Anyone's name maybe removed from an eligible register for failure to pass a required examination or upon receipt of proof of material physical or mental disability, bad character or other unfitness, fraudulent conduct, or false statements by the eligible or 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 shall be deemed cause for cancellation of eligibility.
- b. If a person's name has been certified two times for appointment to an entry level position, and such person has not been appointed, such name will be dropped from the employment list.
- c. Separation from the service will terminate any promotional eligibility.
- d. Upon request of an appointing authority that an eligible has failed to respond to call, or has refused to accept employment, the Secretary may strike the eligible's name from the register.
- e. Failure to respond to the canvass of a register within ten (10) business days from such canvass shall be deemed cause to strike the name of any eligible from the register.
- f. Refusal to accept reemployment in a permanent position shall constitute separation from the service except as provided in Rule 9.07(e).
- g. Such action contemplated by this rule may also be taken for other material reasons.

#### 9.17 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 Commission for such restoration. The request must specify the reasons for the requested restoration. Upon receipt of such a request, the Commission shall notify the appointing authority and request a response from the authority by a date certain. If the appointing authority does not agree with the request, the appointing authority may request that the Commission deny it and hold a hearing to do so. If the appointing authority requests a hearing, the Commission shall notify the eligible and a hearing shall be held to determine whether the eligible should be

restored to the list. The Commission may approve the request if it is deemed that the evidence submitted justifies such approval, and is in the best interest of the City.

## 10. CERTIFICATION AND APPOINTMENT

### 10.01 GENERAL PROVISIONS

Vacancies in the classified civil service shall be filled by reinstatement, promotional appointment, assignment, open graded appointment, transfer, reduction, demotion, or in the absence of an appropriate register, the Commission may authorize a temporary appointment.

### 10.03 REQUEST FOR CERTIFICATION

Whenever an appointing authority wishes to fill a vacancy, a request for certification shall be submitted to the 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 necessary for full description of the position to be filled.

### 10.05 CERTIFICATION

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

- (1) Lay off reinstatement registers
- (2) Resignation reinstatement registers
- (3) Eligible registers

b. Order of reinstatement:

- (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 the 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 Department, after giving the employees adversely affected an opportunity to be heard.

- c. Certification of Eligibles:
- (1) If a vacancy is to be filled from the promotional register, the Secretary eligibles who stand highest on the appropriate register.
  - (2) If a vacancy is to be filled from an open graded register, the Secretary shall certify to the appointing authority the names of the five available eligibles who stand highest on the appropriate register.
  - (3) Nothing in these rules shall be interpreted to prohibit the Commission from certifying an eligible list containing fewer than five available eligibles where an insufficient number of applicants apply, fail to meet the minimum criteria established or pass the required examination(s). In such case, the Commission shall certify the names of the available eligibles who stand highest on the appropriate register. The appointing authority may then exercise its right provided in Gig Harbor Municipal Code Section 2.22 to either appoint from the list or elect to fill the vacancy by temporary appointment until the eligible list contains the name of at least five available eligibles.
- d. 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.
- e. 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.
- f. 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.
- g. If a temporary vacancy is to be filled from an open or a promotional register, register as having been laid off within the last twelve (12) months from the department in which the vacancy exists shall be placed in grade order at the head of the list of eligibles for certification according to rule.
- h. 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 Commission may grant deferment of certification of an eligible upon receipt from the eligible of a written request with for. Such deferment will thereafter such eligible until the next vacancy occurring after the eligible has given written notice of his desire to be returned to the register, and such return has been approved by the Commission. An eligible may only be certified to a register on which those listed have taken the same, or substantially the same, examination as the eligible, as determined by the Commission.

10.09 DURATION OF CERTIFICATION

Certification shall be in effect for (45) days from its date of issuance. The appointing authority must file a request of any appointment from such certification with the Commission. Upon request, the Commission 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 TEMPORARY APPOINTMENT

Where there is no suitable eligible register from which certification can be made and the beet interests of the City require prompt action or the services of a temporary employee, the Commission may allow the appointing authority to make a temporary appointment. A temporary appointment may be made for a period of up to twelve (12) months, and may be extended up to six (6) months. No person shall receive more than one temporary appointment in any twelve-month period. All temporary 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 Commission upon satisfactory written showing by the appointing authority, if such extension will not cause the temporary appointment to exceed the twelve-month limitation.

## **11. PROBATION**

### **11.01 PROBATIONARY PERIOD**

- a. After each full-time or part-time permanent appointment from an eligible register, the employee appointed shall serve a complete period of probation before the appointment is deemed complete.
- b. A regular employee who has been induced to a lower class in which he has not had regular standing shall have probationary status in the lower class for six (6) months from the date of such reduction.

### **11.03 LENGTH OF PROBATIONARY PERIOD**

The period of probation shall be equivalent to twelve (12) months of full-time service following completion of the academy; twelve (12) months from date of hire for a lateral hire; and, for a promotion, twelve (12) months from date of promotion. Such period may be extended for up to an additional six (6) months if requested by the appointing authority and such extension is determined to be warranted by the Commission. If an employee is absent from duty for a prolonged period while on approved leave during a probationary period, and the appointing authority or department head does not have a reasonable opportunity to evaluate the performance of the employee, the appointing authority or the department head may calculate the probationary period of the employee on the basis of twelve (12) months of actual service, exclusive of the time away on approved leave.

### **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 employee may continue the probationary period following return from military leave.

### **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 Commission 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 CERTIFICATION TO REGULAR EMPLOYMENT**

The appointing authority must certify a probationer as either satisfactory or unsatisfactory the last day of the probationary period. If satisfactory, certification will include a recommendation for regular employment. If unsatisfactory, certification will include a recommendation for termination.

## 12. LAYOFF

### 12.01 LAYOFF

- a. Order of layoff. In a given class and department, the following shall be the order of layoff: (1) temporary employees; (2) probationers (except as their layoff may be affected by military service during probation); (3) regular employees in the order of their length of service, the one with the least service being laid off first.
- b. Layoff out of order. The Commission may grant permission for layoff out of the regular order, upon showing by the appointing authority of the necessity therefore in the interest of efficient operation of the department, after giving any employee or employees affected an opportunity to be heard.
- c. 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 and a series of classes in the department.

### **13. LEAVES OF ABSENCE**

#### **13.01 LEAVES OF ABSENCE**

All leaves of absence will be regulated as described in City of Gig Harbor Personnel Policy Handbook.

**14. RESIGNATION**

14.01 HOW SUBMITTED

The resignation of any employee from the service shall be made in writing and filed with the Commission after approval by the appointing authority.

14.03 RETURN TO ELIGIBLE REGISTER FOLLOWING RESIGNATION

(See Rule 9.05).

## 15. DISCIPLINE AND TERMINATION

### 15.01 SUSPENSION -TERMINATION

- a. A department head may suspend a subordinate, with or without pay, for a period not to exceed thirty (30) working days for good cause.
- b. Appointing authority may terminate a subordinate for good cause.

### 15.03 DEMOTION

- a. Demotion of an employee to a lower class for good cause may be made by the department head.
- b. An employee so demoted shall lose all rights to the higher class.
- c. If the employee has not had previous standing in the lower class, such demotion shall not displace any other regular employee or any probationer. The Commission shall be satisfied as to the ability of such demoted employee to perform the duties of the lower class and shall require the completion of a probationary period.

### 15.05 DISCIPLINE - GOOD CAUSE - ILLUSTRATED

The following are declared to illustrate adequate causes for discipline; discipline may be made for any other good cause:

- a. Incompetency, inefficiency, or inattention to, or dereliction of duty;
- b. Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct himself;
- c. Mental or physical unfitness for the position which the employee holds;
- d. Dishonest, disgraceful, or prejudicial conduct;
- e. 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 efficient 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.
- f. Conviction of a felony, or a misdemeanor involving moral turpitude;

- g. False or fraudulent statements or fraudulent conduct by an applicant, examinee, eligible, or employee, or such actions by others with his or her collusion;
- h. Willful or intentional violation of any lawful and reasonable regulation, order or direction made or given by a superior officer;
- i. Willful or intentional violation of any of the provisions of these rules.

## **16. HEARINGS**

### **16.01 HEARINGS -APPEALS**

- a. Any regular employee who is demoted, suspended or terminated may appeal such action to the Commission.
- b. Any employee who is alleged to be probationary by the disciplining department may only appeal to the Commission the questions relating to his probationary status.
- c. An employee or department who is adversely affected by an alleged violation of Civil Service rules or City ordinances may appeal such violation to the Commission.

### **16.03 APPEALS – TIME – FORM**

A notice of appeal shall be filed at the Commission offices within ten (10) calendar days of the action that is subject of the appeal with notice of service on the employee. 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 served 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.

### **16.05 EXHAUSTION OF ADMINISTRATIVE REMEDIES**

- a. The Commission may, when not inconsistent with the terms of a collective bargaining agreement, direct the employee to exhaust available administrative procedures regarding a disciplinary matter, before hearing the matter.
- b. If the employee exhausts the available administrative procedures may, within ten (10) business days after the final step of the procedure, request the Secretary to return the appeal to the Commission for hearing.

### **16.07 AUTHORITY OF SECRETARY**

- a. The Secretary to the Commission shall have the authority to make orders of preliminary matters, including motions for discovery and to compel discovery, issue subpoenas to compel attendance at hearings at the request of a party, continuances, protective orders, and other similar matters. Such orders may be appealed to the Commission.

- b. The Commission may authorize the Secretary 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 Secretary 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.
- c. As an aid to investigations authorized by the Commission, the Secretary may subpoena any documents that would be discoverable for purposes of hearing preparation and may take statements by tape recorder of any person who may have relevant knowledge. Statements so taken shall be kept as part of the records of the Commission.

#### 16.09 APPEALS - INITIAL REVIEW

The Secretary shall review all appeals to determine whether the employee has timely filed an appeal and whether the action appealed from is a final action. Upon determination that the appeal is not timely, the Secretary shall issue a written order of dismissal with-prejudice, setting forth the basis of the dismissal. In the case of an action that is not final, the appeal shall be stayed until such action becomes Ant. Such orders may be appealed to the Commission.

#### 16.11 APPEALS - NOTICE OF HEARING

Upon receipt of a notice of appeal, the Secretary shall forward a copy of the notice to other affected parties. Within ten (10) business days, the Commission shall set a hearing date. Each party to be afforded not less than twenty (20) business days' notice of such hearing. Subsequent hearings on the same appeal shall have not less than five (5) business days, notice unless waked by the parties. M parties may agree to waive the notice provisions and time limits provided by this section.

#### 16.13 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 pates should be submitted to the Commission prior to such dismissal, and the requested order may include a request to seal the records of a proceeding, if necessary to prevent disclosure of information which would violate the employee's right to privacy.

#### 16.15 SERVICE OF PROCESS -PAPERS

- a. The Secretary shall cause to be sewed 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.

- b. All notices, documents or papers other than notice of termination 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 notice of termination shall be by personal service. Service of any other papers shall be by registered or certified mail, or by regular mail with written acknowledgment of such mailing attached to the papers so served. Written acknowledgment shall be by affidavit of the person who mailed the papers, or by certificate of any attorney or the Secretary.
- c. Service upon pates shall be regarded as complete when personal service has been accomplished; or by mail (U.S. or inter-city), upon deposit in the mail properly stamped and addressed.
- d. Papers required to be filed with the Commission shall be deemed filed upon actual receipt of the papers by the Secretary at the Commission office. All papers except the original appeal notice shall be served with the original and three 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. This rule shall apply to filings during the administrative appeal process only, and shall not authorize service of process in any superior court action on the Secretary. Parties seeking to serve process in any superior court action must comply with all applicable statutes, ordinances, and court rules regarding such service and this Rule shall not apply to any such service.
- e. 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.

#### 16.17 DISCOVERY

- a. 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 Secretary.
- b. Upon the failure of any party to comply with an order of the Secretary compelling discovery, the Secretary shall schedule the matter before the Commission for review and determination of appropriate sanctions.

#### 16.19 SUBPOENAS

- a. 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.
- b. 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 hearing or discovery 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 or date of deposition.
- c. Service of subpoena shall be made by serving a copy of the subpoena on the person therein.
- d. 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.
- e. 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.

#### 16.21 BURDEN OF PROOF

At any hearing on appeal from a removal, suspension, demotion, or termination, the appointing 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.

#### 16.23 EVIDENCE

- a. 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.

- b. Witnesses in any hearing may be examined orally, under oath or affirmation, and shall be subject to cross-examination by opposing parties and the Commission.
- c. 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.
- d. 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 and to the Secretary.
- e. 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.

#### 16.25 DELIBERATION

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

#### 16.27 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 ten (10) business days of the close of the hearing of an appeal or other proceeding heard only by the Commission.

#### 16.29 REMEDIES

The Commission may issue such remedial orders as deemed appropriate.

16.31 WAIVER

Upon stipulation of all parties to a proceeding, proceeding, and upon a showing that the purposes of the rules or ordinances of the City would be better served, the Commission may waive the requirements of any of these rules.

## 17. RETIREMENT AND DISABILITY

### 17.01 RETIREMENT

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

### 17.03 REINSTATEMENT AFTER DISABILITY RETIREMENT

- a. The Commission shall review any report from a retirement system showing that a former employee who is on disability retirement has regained his health to the extent employable.
  - (1) Upon being satisfied that the employee is physically and mentally competent to perform the duties of the regular class, the Commission shall restore the employee to the same civil service rank held by the employee at the time of his retirement, or, if the employee is unable to perform the duties of said rank, then at his request, the Commission shall restore him to such other like or lesser rank as may be open and available, the duties of which he is then able to perform. In the event there is no such position open and available at the time the employee requests restoration, the Commission shall, at the employee's request, place the employee's name at the top of the reinstatement register for the highest position whose duties the employee is then able to perform.
  - (2) 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 Commission;
  - (3) If such an employee's name is placed on a reinstatement register, length of service acquired previous to retirement shall be continued. The employee shall be reinstated from such register and transferred or reduced in grade according to these rules. Eligibility rights shall not expire as prescribed in case of layoff.
- b. Any reinstatement in a class other than that in which last employed shall not result in a promotion.
- c. The provisions of this rule shall not apply in the event an employee is terminated from the service and concurrently given a disability retirement.

## **18. MISCELLANEOUS**

### **18.01 REPEALS AND SAVINGS**

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

### **18.03 COMPETITION OF TIME**

- a. 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.
- b. Any period of time except for the stated period of time set forth in Rules 16.03 and 16.11 may be extended by the Secretary for no more than ten (10) business 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.
- c. 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 or is mailed to a party to a proceeding.

Exhibit 'A'

VETERANS' PREFERENCE IN EXAMINATIONS  
RCW 41.04.010

**RCW 41.04.010**

**Veterans' scoring criteria status in examinations.**

In all competitive examinations, unless otherwise provided in this section, to determine the qualifications of applicants for public offices, positions or employment, the state, and all of its political subdivisions and all municipal corporations, shall give a scoring criteria status to all veterans as defined in RCW 41.04.007, by adding to the passing mark, grade or rating only, based upon a possible rating of one hundred points as perfect a percentage in accordance with the following:

(1) Ten percent to a veteran who served during a period of war or in an armed conflict as defined in RCW 41.04.005 and does not receive military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(2) Five percent to a veteran who did not serve during a period of war or in an armed conflict as defined in RCW 41.04.005 or is receiving military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(3) Five percent to a veteran who was called to active military service for one or more years from employment with the state or any of its political subdivisions or municipal corporations. The percentage shall be added to the first promotional examination only;

(4) All veterans' scoring criteria may be claimed upon release from active military service.

[2003 c 45 § 1; 2002 c 292 § 4; 2000 c 140 § 1; 1974 ex.s. c 170 § 1; 1969 ex.s. c 269 § 2; 1953 ex.s. c 9 § 1; 1949 c 134 § 1; 1947 c 119 § 1; 1945 c 189 § 1; Rem. Supp. 1949 § 9963-5.]

**NOTES:**

Veterans and veterans' affairs: Title 73 RCW.

Exhibit 'B'

GIG HARBOR MUNICIPAL CODE  
CHAPTER 2.22

**Chapter 2.22**

**CIVIL SERVICE SYSTEM**

**Sections:**

- 2.22.010 Intent of chapter.
- 2.22.020 Definitions.
- 2.22.030 Civil service commission created – Appointment – Term – Removal and quorum.
- 2.22.040 Organization of commission – Powers and duties – Secretary.
- 2.22.050 Persons included – Competitive examinations – Transfers, discharges and reinstatements.
- 2.22.060 Existing personnel continued under civil service.
- 2.22.070 Qualifications of applicants.
- 2.22.080 Tenure of employment – Grounds for discharge, reduction or deprivation of privileges.
- 2.22.090 Procedure for discipline of permanent appointees – Predisciplinary hearing.
- 2.22.100 Hearing required – Notice.
- 2.22.110 Hearings – Legal counsel.
- 2.22.120 Hearings – Scope and standard of review.
- 2.22.130 Conduct of hearing – Evidence.
- 2.22.140 Decision of commission – Findings and conclusions required.
- 2.22.150 Vacancies – Probation.
- 2.22.160 Emergency, provisional and temporary appointments.
- 2.22.170 Power to create offices, make appointments and fix salaries not infringed.
- 2.22.180 Enforcement by civil action – Legal counsel.
- 2.22.190 Deceptive practices, false marks, etc., prohibited.
- 2.22.200 Penalty – Jurisdiction.
- 2.22.210 Applicability.

**2.22.010 Intent of chapter.**

It is the intent of the city council in enacting the ordinance codified in this chapter to create a system of civil service independent of Chapter 41.12 RCW but which substantially accomplishes the purposes of that chapter. The city council finds that the system of civil service set forth in this chapter meets this intent and the requirements of RCW 41.12.010 for such independent systems. (Ord. 510 § 2, 1987).

**2.22.020 Definitions.**

As used in this chapter the words and terms set forth in this section shall be given the following definitions:

- A. “Appointing authority or power” means the mayor of the city or the mayor’s designee.
- B. “Appointment” includes all means of selecting, appointing or employing any person to hold any office, place, position or employment subject to civil service.
- C. “Commission” means the civil service commission created in this chapter, and “commissioner” means any one of the three commissioners appointed to that commission.
- D. “City” means the city of Gig Harbor, Washington.
- E. “Full-time fully commissioned officer” means an employee vested with full authority to perform the full range of law enforcement duties traditionally performed by police officers on a year round basis pursuant to the full-time schedule of work adopted by the police department.
- F. “Emergency appointment” means an appointment to serve in a position covered by this chapter under emergency conditions for the duration of the emergency.
- G. “Provisional appointment” means an appointment to a position covered by this chapter made in the absence of an eligibility list for the position and pending the establishment of such list.
- H. “Temporary appointment” means an appointment of an eligible or eligibles from any

employment and promotional list to a position of specified temporary duration. (Ord. 510 § 2, 1987).

**2.22.030 Civil service commission created – Appointment – Term – Removal and quorum.**

- A. There is created in the city a civil service commission which shall be composed of three persons.
- B. The members of such commission shall be appointed by the mayor; provided, that the members of the civil service commission presently constituted shall be the initial commissioners of the newly created civil service commission and shall continue in office until the term of their current appointment expires. Confirmation of the appointment or appointments of commissioners by the city council shall be required.
- C. The members of such commission shall serve without compensation.
- D. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of the city for at least one year immediately preceding such appointment, and an elector of the county.
- E. Except for the initial commission, the term of office of such commissioners shall be six years.
- F. Any member of such commission may be removed from office for incompetency, incompatibility or dereliction of duty or malfeasance in office, or other good cause; provided, however, that no member of the commission shall be removed until charges have been preferred, in writing, due notice and a full hearing held.
- G. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this chapter.
- H. Two members of such commission shall constitute a quorum and the votes of any two members of such commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission under or by virtue of the provisions of this chapter. (Ord. 510 § 2, 1987).

**2.22.040 Organization of commission – Powers and duties – Secretary.**

- A. Immediately after appointment, the commission shall organize by electing one of its members chairperson and shall hold regular meetings at least once a quarter, and such additional meetings as may be required for the proper discharge of its duties. It shall be the duty of the civil service commission, to the extent necessary to ensure that the provisions of this chapter are carried out to:
1. Make suitable rules and regulations to implement this chapter which are not inconsistent with the provisions thereof. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions, and discharges shall be made and may also provide for any other matters which may be considered desirable to carry out the purposes of this chapter. The rules and regulations and any amendments thereof shall be printed, mimeographed or multigraphed for public distribution at cost. Such rules and regulations may be changed from time to time. Pending adoption of new rules under this chapter, the current civil service rules shall remain in effect to the extent not inconsistent with this chapter;
  2. Ensure that all tests are practical and consist only of subjects which will fairly determine the capacity of persons examined to perform the duties of the position to which appointment is to be made, and may include tests of physical fitness and/or manual skills;
  3. Ensure that the rules and regulations adopted by the commission provide for veteran's preference credit in favor of all applicants for appointment under civil service, entitled to such credit pursuant to state law. These credits shall apply to entrance examinations only;
  4. Make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed under this chapter; inspect all institutions, departments, offices, places, positions and employments affected by this chapter, and certain whether this

chapter and all such rules and regulations are being obeyed;

5. Such investigations shall be made by the entire commission, or by a designated commissioner. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of a citizen, duly verified stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation, the commission or designated commissioner, or chief examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to the investigation and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section and shall be deemed a violation of this chapter and punishable as such;

6. Ensure that all hearings and investigations before the commission are governed by this chapter and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof the commission shall not be bound by technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission; provided, however, that no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members;

7. Hear and determine appeals or complaints respecting any examination and such other matters as may be referred to the commission pursuant to the duties outlined in subsection (A)(1) of this section;

8. Establish and maintain in card or other suitable form a roster of employees covered by civil service;

9. Provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions as established by the city; and to provide that employees laid off because of curtailment of expenditures, reduction in force, and for like cause, head the list in the order of their seniority, to the end that they shall be the first to be reemployed;

10. When a vacant position is to be filled, to certify to the appointing authority, on written request, the names of the five persons highest on the eligible list, as provided in GHMC 2.22.150. Where more than one vacant position is to be filled, the commission shall certify from those highest on the eligible list, five times the number of persons necessary to fill the vacant position;

11. Keep such records as may be necessary for the proper administration of this chapter.

B. The commission shall appoint a person to hold the position of secretary and chief examiner. The duties of secretary and chief examiner shall be to keep the records of the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe. The commission may provide for the compensation of such person in an amount commensurate with the time and responsibility involved.

C. The commission shall have no power to make any rule concerning the resignation or voluntary separation from employment of any person holding a position covered by this chapter. (Ord.741 § 1, 1996; Ord. 510 § 2, 1987).

#### **2.22.050 Persons included – Competitive examinations – Transfers, discharges and reinstatements.**

A. The provisions of this chapter shall apply to all full-time, fully commissioned officers of the city's police department, except for the position of police chief, who, because of the nature of his position, shall serve in his position as other city department heads without civil service coverage.

B. All clerical, dispatchers, mechanics and

other employees of the police department who are not full-time, fully commissioned police officers are excluded from coverage under this chapter.

C. The position of civil service secretary and chief examiner shall not be a civil service position.

D. All appointments to and promotions to positions covered by this chapter shall be made solely on merit, efficiency and fitness, which shall be ascertained by competitive examination and impartial investigation. No person shall be reinstated in or transferred, suspended or discharged from any such place, position or employment contrary to the provisions of this chapter. (Ord. 510 §2, 1987).

#### **2.22.060 Existing personnel continued under civil service.**

For the benefit of the public service and to prevent delay, injury or interruption therein by reason of the enactment of the ordinance codified in this chapter, all persons having completed probation in the police department and entitled to civil service coverage are declared permanently appointed under civil service to the offices, places, positions or employments which they shall then hold respectively, and not on probation; and every such person is automatically adopted and inducted permanently into civil service, into such office, place, position or employment which such person then holds even though that office, place, position or employment is not subject to the civil service requirements of this chapter. Nothing in this chapter shall be construed to exculpate or excuse any conduct of any employee committed or engaged in prior to the enactment of the ordinance codified in this chapter, and such conduct may be considered by the appointing authority and the commission in any disciplinary action taken with respect to an employee whose position is covered by this chapter.

#### **2.22.070 Qualifications of applicants.**

An applicant for a position of any kind under civil service must be a citizen of the United States of America who can read, speak and write the English language. An applicant for a position of any kind under civil service must be of an age

suitable for the position applied for, in ordinary good health, of good moral character and of temperate and industrious habits; these facts to be ascertained in such manner as the commission may deem advisable. (Ord. 510 § 2, 1987).

#### **2.22.080 Tenure of employment – Grounds for discharge, reduction or deprivation of privileges.**

The tenure of everyone holding an office, place, position or employment under the provisions of this chapter shall be only during good behavior and any such person may be removed or discharged, suspended without pay, demoted or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

- A. Incompetency, inefficiency or inattention to or dereliction of duty;
- B. Dishonesty, disgraceful, intemperance, prejudicial, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct himself; or any willful violation of the provisions of this chapter or the rules and regulations to be adopted under this chapter;
- C. Mental or physical unfitness for the position which the employee holds;
- D. 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;
- E. Conviction of a felony, or a misdemeanor, involving moral turpitude or illegal drug use;
- F. Promotion of dissatisfaction among members of the department;
- G. Manhandling, mishandling or inhumane treatment of a civilian or person under arrest;
- H. Such other and further bases as may be established from time to time by the department or the appointing authority;
- I. Any other act or failure to act which in the

judgment of the civil service commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service. (Ord. 510 § 2, 1987).

**2.22.090 Procedure for discipline of permanent appointees – Predisciplinary hearing.**

A. No person in the classified civil service who shall have been permanently appointed or inducted into civil service under the provisions of this chapter shall be removed, suspended, demoted or discharged except for cause as provided in GHMC 2.22.080. For purposes of this section, a resignation or voluntary separation from employment shall not be considered a removal, suspension, demotion or discharge.

B. Whenever the appointing authority has determined that cause for removal, suspension, demotion or discharge exists, the appointing authority shall offer the accused employee the opportunity for a predisciplinary hearing. Such hearing shall consist of oral or written notice of the charges being given to the employee, and a meeting between the employee and the appointing authority at which an explanation of the appointing authority's evidence and an opportunity for the employee to tell his or her side of the story prior to discipline is given.

C. If, upon completion of the predisciplinary hearing, the appointing authority determines that there is sufficient evidence to warrant removal, suspension, demotion or discharge of the employee, the appointing authority shall serve the employee with a written statement which contains, in general terms, the charges and evidence against the employee, together with a statement of the disciplinary action to be taken.

A duplicate of the statement required by this subsection shall be filed with the commission.

D. Any person removed, suspended, demoted or discharged under the provisions of this section may, within 10 days from the date of the removal, suspension, demotion or discharge, file with the commission a written demand for an investigation. (Ord. 510 § 2, 1987).

**2.22.100 Hearing required – Notice.**

A. Whenever the commission shall receive a

timely, written demand for investigation, the commission shall schedule a hearing in order to conduct such investigation. The hearing shall be open to the public, except as otherwise provided in this chapter, and shall be held not less than 20 days, nor more than 60 days, after receipt of the written demand for investigation, unless good cause is shown for either an earlier or later scheduling.

B. Written notice of the scheduled hearing shall be mailed by certified mail, return receipt requested, not less than 10 days prior to the date selected for the hearing. The notice shall be mailed to the accused, or his attorney or representative designated in the demand, and also the appointing authority. The notice shall identify the case to be heard, the names of the parties and their representatives, if any, and shall specify the time and place of the hearing. (Ord. 510 § 2, 1987).

**2.22.110 Hearings – Legal counsel.**

Both the appointing authority and the accused shall have the right to be represented by legal counsel at all stages of the commission's investigation and hearing. In addition, the commission may, in its discretion, retain independent counsel at city expense to assist the commission in the conduct of the hearing process. (Ord. 510 § 2, 1987).

**2.22.120 Hearings – Scope and standard of review.**

Hearings upon demand for investigation or review of disciplinary actions taken by the appointing authority shall be quasi-judicial in nature and shall be conducted de novo. The inquiry of the commission shall be limited in such matter to the determination of the question of whether the removal, suspension, demotion or discharge was or was not made for political or religious reasons, and was or was not made in good faith for cause. (Ord. 510 § 2, 1987).

**2.22.130 Conduct of hearing – Evidence.**

A. The chairperson or acting chairperson of the commission shall conduct the hearing in an orderly manner and shall rule on all procedural matters, objections and motions made by any party.

B. The testimony of all witnesses shall be under oath. All documents which any party wishes to have the commission review as part of the evidence shall be introduced as exhibits. A verbatim record of the proceeding shall be kept.

C. All portions of the hearing shall be open to the public, with the following exceptions:

1. Where all parties agree to a closed hearing; or
2. Where the chairperson determines that, because of the sensitive nature of a witness' testimony, the hearing should be closed during that testimony in order to prevent unnecessary embarrassment to the witness;
3. Where the commission determines to exclude witnesses who have not yet testified or who may be recalled to testify during the testimony of other witnesses; or
4. During the deliberations of the commission.

D. The chairperson shall determine the proper order of the hearing. As a general rule, the hearing shall proceed as follows:

1. The appointing authority and the accused shall each be offered the opportunity to make an oral opening statement, setting out briefly a statement of the facts, disputes and issues in the case. Either party may waive opening statement;
2. After opening statements, the appointing authority shall introduce all evidence in his or her case in chief;
3. After the close of the appointing authority's case, the accused may then introduce all evidence in his or her case in chief;
4. Rebuttal evidence from the appointing authority will be received after the close of the accused's case in chief;
5. Upon completion of rebuttal testimony and evidence, each party shall be given an opportunity to make a closing statement to the commission setting forth that party's view of the evidence and its relation to the issues before the commission;
6. After completion of closing statements, the commission shall deliberate and render a decision.

E. All matters to be proven by any party shall be proven by a preponderance of the evidence. The appointing authority bears the burden of sustaining a removal, suspension, demotion or discharge.

F. In conducting the hearings, the commission shall not be bound by the technical rules of evidence. The commission may receive and examine any and all evidence which it determines to be relevant to the issues before the commission.

G. During the presentation of the testimony, each party shall be allowed direct examination, if the witness is called by the party in his or her case in chief or rebuttal, or cross-examination, if the witness is called by an adverse party in such party's case in chief or rebuttal. In addition, each commissioner and the commission's legal counsel, if any, may question any witness. (Ord. 510 § 2, 1987).

#### **2.22.140 Decision of commission – Findings and conclusions required.**

A. After the hearing has been completed, the commission shall deliberate and reach a decision concerning the disciplinary action. If the commission finds that the removal, suspension, demotion or discharge was made for political or religious reasons or was not made in good faith for cause, the commission shall order the immediate reinstatement or reemployment of the accused in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. If, on the other hand, the commission finds that such removal, suspension, demotion or discharge was not made for political or religious reasons and was made in good faith for cause, the commission may affirm the removal, suspension, demotion or discharge, or, in lieu thereof, may order such greater or lesser discipline as it deems appropriate under the circumstances.

B. In rendering its decision, the commission shall make findings and conclusions in support thereof. The findings shall contain a summary of the evidence relied upon by the commission in reaching its decision and the conclusions shall indicate the commission's reasoning in applying the standard of review set forth in GHMC 2.22.120 to the facts. The findings of the

commission shall be certified in writing to the appointing power and shall be enforced by such power.

C. The accused may appeal from the commission's decision or order to the county superior court. Such appeal shall be taken by serving the commission, within 10 days after the entry of the commission's judgment or order, with a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and all papers and exhibits on file in the office of the commission affecting or relating to such judgment or order be filed by the commission with such court. The accused shall pay all costs of preparing the transcript at the time the notice of appeal is filed. The commission shall, within 30 days after the filing of such notice and the payment of costs, make, certify and file such transcript with such court. The county superior court shall proceed to hear and determine such appeal in a summary manner; provided, however, that such hearing shall be confined to the determination of whether the judgment or order made by the commission was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds. (Ord. 510 § 2, 1987).

#### **2.22.150 Vacancies – Probation.**

A. Whenever a position in the classified service becomes vacant, the appointing authority, if it desires to fill the vacancy, shall make requisition upon the commission for the names and addresses of the persons eligible for appointment thereto.

B. If an eligible list exists for the class of such position which contains the names of at least five eligibles who are willing to accept employment, the commission shall forthwith certify the names of the top five persons eligible for appointment to the appointing authority, and the appointing authority shall appoint one person so certified to the position; provided, that they are in fact found to be qualified for the position by the appointing authority.

C. If there is no eligible list for the class, the commission shall either establish such a list as provided in this chapter or otherwise determine

what list shall be deemed appropriate for such class. The commission shall then certify the names of the five persons standing highest on the list and the appointing authority shall appoint one person so certified to the position, providing that they are found in fact to be qualified for the position by the appointing authority.

D. If there is an eligible list for the class which contains the names of less than five eligibles, the appointing authority may, upon being notified of such fact, elect to fill the vacancy by temporary appointment until the eligible list contains the names of at least five eligibles, or may, in the alternative, request that the commission certify the names of those remaining on the list for appointment.

E. If, upon the conduct of any background or other investigation by the appointing authority the appointing authority determines that the name of any person should be removed from the eligible list, the commission shall remove the name forthwith. If any name is so removed or if any person certified by the commission requests not to be considered for appointment, the commission shall certify the next highest person on the eligible list to replace those removed.

F. To enable the appointing authority to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of one year of probationary service, during which the appointing authority may terminate the employment of the person appointed by him or her, if, during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing authority deems such person unfit or unsatisfactory for service in the department. Upon such termination of employment, the appointing authority shall request the commission to certify the next three persons highest on any eligibility list for the position and the appointing authority shall appoint one person so certified to the vacant position; provided, that the appointing authority finds such person to in fact be qualified for the position. Upon such appointment, the person appointed shall likewise enter upon the duties of

the position for a period of one year's probationary service in the same manner as the original appointment. This process shall be repeated until some person is found who is deemed fit for appointment, employment or promotion for the probationary period provided therefor, whereupon the appointment, employment or promotion shall be deemed to be complete.

G. The appointing authority may, in its discretion, extend probation for any appointee up to an additional six months after expiration of the original one year probationary period. (Ord. 741 § 2, 1996; Ord. 510 § 2, 1987).

### **2.22.160 Emergency, provisional and temporary appointments.**

A. In order to meet the requirements of an emergency condition which threatens the public safety, the appointing authority may employ any person or persons in a position covered by this chapter, without regard to the restrictions imposed in this chapter. Such employment shall be limited to the duration of the emergency and shall not exceed 90 days without council approval.

B. The appointing authority may make a provisional appointment to a position covered by this chapter when no eligible list exists for the position. Such appointment shall expire upon the establishment of an eligible list for the position by the commission and the appointment of a person from such list by the appointing authority.

C. Whenever a temporary position or temporary vacancy in a position exists, the appointing authority may fill such position or vacancy using the following procedures:

1. In making a temporary appointment, the appointing authority shall make requisition to the secretary and chief examiner in the manner provided for regular appointment, but shall indicate the time at which it is estimated the position will terminate. The secretary and chief examiner shall notify the person or persons appearing on the appropriate eligibility list or lists, indicating the nature of the position and its duration, to learn who may be willing to accept temporary appointment. The three most

qualified persons willing to accept shall be certified to the appointing authority.

2. Notwithstanding the provisions of subsection (C)(1) of this section, the appointing authority may make temporary transfers or appointments to fill temporary vacancies caused by disability, illness or vacations without seeking a list of eligibles therefor, and the employee temporarily filling the position may be paid the compensation usually paid for such service.

D. No temporary or provisional appointment shall be continued, and no person shall be employed in a position on a temporary or provisional basis for more than 12 months; provided, that a temporary or provisional appointment may be extended for up to an additional six months if, for any reason, it cannot be determined at the expiration of the initial appointment that the position being filled by temporary or provisional appointment will, in fact, continue to be vacant, such as in the instance of a position vacant due to an officer on disability leave under the LEOFF Act or for other good cause which, in the discretion of the commission, warrants an additional extension of such provisional or temporary appointment.

E. The period during which any person serves in a position covered by this chapter as a provisional or temporary appointee shall not be credited against any probationary period for a permanent appointment and shall not be used for computing time in grade or time of service for purposes of promotion. (Ord. 510 § 2, 1987).

### **2.22.170 Power to create offices, make appointments and fix salaries not infringed.**

A. All offices, places, classifications, job qualifications, job descriptions, salary ranges and positions coming within the purview of this chapter shall be created and abolished by the city council.

B. The mayor alone or the mayor's designee or whomever otherwise is vested with power and authority may select, appoint or employ any person coming within the purview of this chapter.

C. Nothing contained in this chapter shall infringe upon the power and authority of any such person or group of persons, or appointing

authority, to fix the salaries and compensation of all employees employed under this chapter or to specify the qualifications, including experience, necessary for any position within the civil service. (Ord.510 § 2, 1987).

**2.22.180 Enforcement by civil action – Legal counsel.**

It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this chapter and of the rules of the commission. The commission shall be represented in such suits by the city attorney, or his/her designee, but the commission may in any case be represented by special counsel appointed by it. (Ord. 510 § 2, 1987).

**2.22.190 Deceptive practices, false marks, etc., prohibited.**

No commissioner or any other person, shall, by himself or in cooperation with one or more persons, defeat, deceive or obstruct any person in respect of his right of examination or registration according to the rules and regulations of this chapter, or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this chapter, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified or persuade any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration of application or request to be examined or registered. (Ord. 510 § 2, 1987).

**2.22.200 Penalty – Jurisdiction.**

Any person who wilfully violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than \$5,000, or by imprisonment in jail for not longer

than one year, or by both such fine and imprisonment. (Ord. 510 § 2, 1987).

**2.22.210 Applicability.**

The examination and eligibility provisions of this chapter and establishment of positions covered by civil service by the provisions of this chapter shall be effective for all appointments made after the effective date of the ordinance codified in this chapter. (Ord. 510 § 2, 1987).

Exhibit 'C'

JOB CLASSIFICATION DESCRIPTIONS  
POLICE DEPARTMENT

## **POLICE SERGEANT**

### Nature of Work

This is a highly responsible mid-management and human relations position in public safety for the City of Gig Harbor.

The employee is responsible for supervising patrol, traffic, and crime prevention programs. This includes scheduling and coordination of personnel and equipment, and the evaluation of personnel performance.

The employee performs all of the functions of a police officer.

The employee establishes effective relationships with the community, supervisors, subordinates, elected city officials, other criminal justice agencies, and city employees.

### Controls Over Work

The employee is under the supervision of the Police Lieutenant and Chief of Police, the demands of applicable local, state, and federal laws, and judicial rulings.

The employee exercises considerable latitude in judgment and supervision techniques.

Performance is reviewed for results obtained and conformance with department policy and procedures, applicable laws, and court decisions.

### Essential Duties and Responsibilities

Supervises and coordinates the performance of personnel assigned to the patrol, traffic, and crime prevention, investigations, drug investigations, records D.A.R.E. and training programs.

Implements policies and procedures.

Designs personnel work schedules.

Advises Chief of Police on personnel issues and program effectiveness.

Trains new police officers.

Writes reports on alleged crimes, traffic incidents, crime prevention programs, and administrative issues.

Coordinates in-service training programs.

Makes crime prevention presentations to civic and business groups.

Performs duties of a police officer.

Performs other duties as required by designated supervisors.

### Knowledge, Abilities, and Skills

Thorough knowledge of federal, state, and local laws, and court rulings.

Thorough knowledge of department policies, procedures, and directives.

Considerable knowledge of the theory, principles, and techniques of supervision.

Considerable knowledge of behavioral theory and human relations techniques.

Good knowledge of the theory, principles, and practices of delivering police services.

Ability to read and interpret laws and court rulings.

Ability to supervise people.

Ability to make decisions effecting the quality and quantity of police service.

Ability to design personnel schedules to meet department needs.

Ability to establish and maintain an effective relationship with the community, department personnel, other criminal justice agencies, and city employees.

### Physical Demand and Work Environment

The employee primarily drives a vehicle or walks. But some work is performed in an office setting. There is considerable walking, bending, stooping, reaching, and at times, running.

Since the employee takes physical custody of persons, there is a certain amount of physical contact and confrontation. And, sometimes the employee is vulnerable to personal injury.

The employee performs the work shift in rotation through a twenty-four hour, seven day a week work schedule.

The work sometimes requires above average physical agility and conditioning.

Qualification Required

Minimum three years of experience in a police service and a demonstration of management abilities.

OR

Two years of police experience and two years of management training or experience.

## **POLICE OFFICER**

### Nature of Work

This is a responsible human relations and skilled position in public safety. The employee in this position is responsible for the protection of the public's safety, the prevention of crime, and the enforcement of local, state, and federal laws.

Work includes patrolling the community by vehicle, on bicycle when assigned, and on foot. The employee responds to calls for service, which include reports of criminal activity, traffic safety, crime prevention, and general public safety problems.

The employee conducts preliminary and continued investigations for reported crimes and traffic accidents. This responsibility includes crime scene processing, interviewing witnesses and victims, and enforcing specific violations of the law.

The employee performs several assignments to prevent crime and traffic accidents. These assignments are educational and inspectional: presentations on prevention techniques; conducting security surveys; security checks on home and businesses; inspection of business practices and policies; and inspection of building construction for compliance with the security ordinance.

### Controls Over Work

The employee is under the direct supervision of a Police Lieutenant and Sergeant, with general supervision by the Chief of Police.

The employee's behavior is governed by policies and procedures of the Police Department; local, state, and federal laws; and, court decisions.

The employee exercises considerable discretion in regulating daily activity and use of enforcement powers.

Performance is monitored daily by the Police Sergeant, Lieutenant, or Chief of Police, for compliance with policies and laws. However, the employee usually performs with minimum supervision.

### Essential Duties and Responsibilities

Patrols the community in a vehicle, on foot, or bicycle when assigned, to deter and detect criminal activity.

Responds to calls for service: documents allegations of a crime; protects persons and property; and advises on preventative practices.

Performs preliminary and continued investigations (traffic and criminal): searches for and collects physical evidence; and, interviews witnesses and victims.

Enforces traffic laws by monitoring traffic movement visually and with radar, contracts violators, and issues traffic citations.

Enforces criminal laws by arrest or non-arrest dispositions.

Conducts Security Surveys for businesses.

Inspects new construction for compliance with Security Ordinance.

Recovers and returns stolen property.

Testifies in court.

Writes reports on alleged crimes, traffic accidents, and arrests.

#### Knowledge, Abilities, and Skills

Thorough knowledge of the accepted practices of delivering police service.

Thorough knowledge of local, state, and federal laws.

Thorough knowledge of department policies, procedures, regulations, and directives.

Considerable knowledge of court decisions relating to police powers.

Good knowledge of human relation techniques.

Ability to write comprehensive and detailed crime reports, accident reports, and administrative reports.

Ability to effectively communicate orally.

Ability to relate to the community, superiors, city officials, and other city employees.

Ability to effectively and safely use a firearm and operate a motor vehicle.

#### Physical Demands and Work Environment

The employee primarily drives a vehicle, walks or rides a bicycle when assigned. Thus, there is considerable walking, bending, stooping, reaching, and at times, running. Since the employee takes physical custody of persons, there is a certain amount of physical contact and confrontation. And, sometimes the employee is vulnerable to personal injury.

The employee is exposed to all weather conditions, and other outside environmental conditions.

The employee rotates in a 24-hour shift schedule.

The work sometimes requires above average physical agility and conditioning.

### Qualifications Required

Entry Level minimum standards: Must be 21 years of age at time of application, have completed high school or GED; be a U. S. citizen; have the ability to read, write, and speak English fluently; have ability to pass background investigation including polygraph, psychological, and medical examinations; possess a valid Washington state driver's license at time of appointment; and have the ability to perform essential job requirements of the position.

Lateral Entry minimum standards: All of the Entry Level standards plus successful completion of a State accredited law enforcement academy, and must have been employed as a Commissioned Police Officer on a full-time basis by a law enforcement agency exceeding a consecutive twelve month period. Shall not have had a lapse in employment as a law enforcement officer for a period exceeding the previous twelve months, calculated from the day of appointment.