



# CIVIL SERVICE RULES

City of Port Townsend, Washington

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GENERAL RULES AND REGULATIONS  
OF THE  
PORT TOWNSEND CIVIL SERVICE COMMISSION  
Pertaining to Civil Service in the  
PORT TOWNSEND POLICE AND FIRE DEPARTMENTS

In accordance with the provisions of RCW 41.08 and 41.12 pertaining to Civil Service in Police and Fire Departments, the Port Townsend Civil Service Commission hereby adopts the following revised Rules for carrying out the purposes of Civil Service for Police Department and Fire Department personnel:

These Rules may be changed or amended by the Commission periodically.

**RULE 1 - DEFINITIONS**

The following definitions shall govern the terms used in these Rules.

1. **ALLOCATE** shall mean the act of assigning each position to its proper class.
2. **APPOINTING AUTHORITY** shall mean the following:
  - a. For Police Department positions other than Chief, the appointing authority shall be the Police Chief who is invested by law with power and authority to select, appoint, or employ any Police Officer, or other necessary employees subject to Civil Service with the concurrence of the City Manager and,
  - b. For Fire Department employees other than the Chief, the appointing authority shall be the Fire Chief who is invested by law with the power and authority to select, appoint, or employ any Fire Fighter or other necessary employees subject to Civil Service with the concurrence of the City Manager.
3. **APPOINTMENT** includes all means of selecting, appointing, or employing any person to any office, place, position, or employment subject to Civil Service.
4. **CAREER TRACK** means a grouping of classifications which the Commission determines have the same general area of concern or responsibility.

5. **CERTIFY** shall mean the act of the Commission in supplying an Appointed Authority with the names of applicants who are eligible for appointment to the class and positions in the classified service for which certification is requested.
6. **CITY** means the City of Port Townsend, in the State of Washington.
7. **CLASS OR CLASSIFICATION** shall mean a position or group of positions having similar duties and responsibilities, requiring similar qualifications, which can be properly designated by one title indicative of the nature of the work and which carry the same salary range.
8. **COMMISSION** means the Port Townsend Civil Service Commission as provided in these Rules and RCW 41.08 and 41.12.
9. **COMMISSIONER** means any one of three members of such Commission.
10. **CONTINUOUS SERVICE** shall mean employment in the classified service as a regular or probationary employee which is uninterrupted except for authorized leave of absence or separation due to layoff; however, time lost due to layoff or suspension shall not be included in the determination of length of continuous service.
11. **DEMOTION** shall mean the assignment of an employee from a position in one class to a position in a lower class, within the same career track, having a lower maximum salary rate, or a reduction in salary to a lower step in the same salary range.
12. **ELIGIBLE** shall mean a person listed on an active employment list after satisfactorily passing a duty related examination.
13. **EMERGENCY EMPLOYEE** shall mean any employee whose services are required to meet the immediate requirements of emergency conditions whenever due to lack of time or otherwise it is impossible to secure the services of persons through the Civil Service Commission.
14. **EMPLOYEE** means any classified person regularly employed in the office of the Port Townsend Police Department or Port Townsend Fire Department, either on a part-time or full-time basis.
15. **EMPLOYMENT LIST** shall mean a list of all persons who have qualified for a conditional job offer to positions within a certain class under the provisions of these Rules, and who have not yet been appointed to such class and who have not been removed from such list in accordance with these Rules.

16. **FILING** shall mean delivery to the Chairperson or Secretary of the Civil Service Commission at the City Clerk's office. An item received through the mail shall be considered filed on the date actually received by the Chairperson or Secretary of the Civil Service Commission. Filing by FAX transmittal followed by actual receipt of originals is permissible except where the item or items being filed require receipt of a fee, such fee must be delivered on or before any required filing date.
17. **LATERAL EMPLOYMENT LIST** shall mean a list of all persons who have qualified for conditional job offer to positions within a certain class under the provisions of these rules for lateral entry and who have not yet been appointed to such class and who have not been removed from such list in accordance with these rules
18. **LAY OFF** means separation from the classified service because of lack of funds or work and without cause on the part of the employee.
19. **ORIGINAL APPOINTMENT** shall mean a regular appointment from an employment list to a position in the classified service.
20. **PART TIME POSITION** shall mean a position in which the employee regularly works less than eighty (80) hours a month.
21. **POSITION** means an office of employment whether part-time or full-time, temporary or regular, occupied or vacant, composed of specific duties. As used in these Rules, the term has no application to volunteers.
22. **PROBATION** shall mean a period, established under the applicable collective bargaining agreement, during which an appraisal of an employee's skills, aptitudes, and adjustments are made prior to regular appointment in that position.
23. **PROBATIONARY EMPLOYEE** shall mean any employee who is serving a probationary period, in accordance with the applicable collective bargaining unit agreement, prior to being approved for retention as a regular employee upon satisfactory completion of probation.
24. **PROMOTION** shall mean the assignment of an employee to a position in a higher class within the same career track having a higher maximum salary than the position from which the assignment is made.
25. **PROMOTIONAL LIST** shall mean an employment list established by a promotional examination.
26. **PROVISIONAL APPOINTMENT** means a non-competitive appointment made for a period of not more than four months in any one year, to fill a classified position, pending the establishment of an employment list for the class.

27. **PROVISIONAL EMPLOYEE** shall mean any employee filling a provisional appointment position.
28. **QUALIFICATION** shall mean an applicant for any position subject to these Rules under civil service must be a citizen of the United States who can read and write the English language and shall mean the knowledge, skills, abilities, and traits identified by the Appointing Authority and approved by the Commission.
29. **REGULAR EMPLOYEES** means employees whose retention has been approved in writing at the satisfactory completion of their probation period in that position.
30. **RESIGNATION** means the termination of employment of an employee at the request of the employee, in writing to the Appointing Authority.
31. **SUSPENSION** means an enforced absence without pay for disciplinary purposes, or pending further investigation of charges made against an employee when the Appointing Authority has reason to believe serious misconduct has been committed which may be found to warrant discharge when further investigation is completed.
32. **TEMPORARY APPOINTMENT** means an assignment of limited duration due to special projects, abnormal work loads, vacancies or emergencies. Temporary employees are not eligible for city benefits.
33. **TRANSFER** shall mean the assignment of an employee from one position to another position for which prior eligibility has been established, having similar duties within the same class and within the same minimum and maximum salary, as the position from which assignment is made.
34. **VACANCY** shall mean a position existing or newly created, which is not occupied, and for which funds are available.

## **RULE 2 - ORGANIZATION**

**Section 1. Commission Created.** There is hereby a Civil Service Commission composed of three members who shall be appointed by the Mayor and confirmed by the City Council.

**Section 2. Qualifications.** No person shall be appointed to the Commission who is not a citizen of the United States, a resident of the City for at least three years immediately preceding their appointment, and an elector of the County.

**Section 3. Term of Office.** The Commissioners appointed shall serve for three years. Each member shall continue to hold office after the expiration of the member's term until a successor has been appointed.

**Section 4. Removal.** Any member of the Commission may be removed from office by the Mayor for incompetency, incompatibility, or dereliction of duty, or malfeasance in office, or other good cause. No Commissioner shall be removed unless charges have been preferred in writing and due notice given. A full hearing shall be held before the City Council if the Commissioner contests the charges and requests a hearing in writing directed to the City Council.

**Section 5. Vacancies.** Any vacancy in the Commission shall be filled for the unexpired term by the Mayor, with confirmation by the City Council.

**Section 6. Quorum Requirements.** Two members of the Commission shall constitute a quorum and the votes of any two members concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the Commission. The chairperson may vote on all matters.

**Section 7. Compensation--Duties.** The members of the Commission shall have clearly demonstrated an interest and belief in the merit principles of civil service, shall serve without compensation, shall not hold any salaried public office or engage in regular City employment other than Commission duties, shall not have been an officer of a political party for a period of one year immediately prior to such appointment and shall not serve in a partisan elective office during the term to which they are appointed. Any Commissioner who elects to perform an act contrary to this section shall be deemed to have resigned from office as a Commissioner, and to have engaged in conduct which is incompatible under RCW 41.08, RCW 41.12.030 and these rules.

**Section 8. Expenses.** The members of the Civil Service Commission shall be reimbursed for necessary expenses incurred while actually engaged in the performance of their official duties in like manner as is provided by law for City officers.

**Section 9. Political Affiliation.** At the time of appointment, not more than two Commissioners shall be adherents of the same political party.

**Section 10. Election of Chair.** Within 30 days of commencement of the full term of a newly appointed member or the vacancy of the office of chairperson or vice-chairperson, the Commission shall elect a chairperson and vice-chairperson. Thereafter, the Commission shall elect a chairperson and vice-chairperson at the regular February meeting in each odd-numbered year.

**Section 11. Meetings.** The Commission shall schedule regular meetings at least once a month, and such additional meetings as may be required of the Commission for the proper discharge of its duties. The regular meetings of the Commission will be held on the first Wednesday of the month at 3:00 PM. A written public record shall be kept by the Commission of all actions of the Commission. The Chief Examiner shall serve as Secretary.

**Section 12. Chief Examiner. (RCW 41.12.040)** The Commission shall appoint a Chief Examiner, who shall also serve as secretary of the Commission, and such assistants as may be necessary. The Chief Examiner shall keep a record of all examinations held under its discretion, and perform such other duties as the Commission may prescribe.

**Section 13. Commission--Duties.** It shall be the duty of the Civil Service Commission:

- (1) To make suitable Rules not inconsistent with the provisions of the Police and Fire Civil Service Acts. (RCW 41.08 & 41.12) Such Rules 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 connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this Act, or which may be found to be in the interest of good personnel administration. The Rules and Regulations and any amendments thereof shall be reproduced for public distribution. The Commission may amend these Rules, adopt supplemental Rules, and hold such hearings as it finds necessary to perform the duties and responsibilities vested in it.
- (2) To give practical tests which shall consist of subjects which in the judgment of the Commission will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made. Such tests may include tests of knowledge, physical fitness and manual skills, endurance, and psychological fitness and suitability.
- (3) To make investigations concerning, and report upon, all matters touching the enforcement and effect of the provisions of the Civil Service Acts, and the Rules and Regulations prescribed hereunder; to inspect all departments, offices, places, positions, and employments affected by the Civil Service Act and to determine that all such Rules and Regulations are being obeyed.
- (4) To conduct hearings and investigations in accordance with RCW 41.08 and 41.12 and by the rules of practice and procedure adopted by the commission.
- (5) To hear and determine appeals or complaints respecting the allocation of positions, the rejection of an examinee, discipline of non-probationary employees, and such matters as may be referred to the Commission.

- (6) To provide, 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, and provide that persons laid off, or who have accepted voluntary demotion in lieu of layoff, because of curtailment of expenditures, reduction in force, and for like causes, head the employment list in the order of their seniority, to the end that they shall be the first to be re-employed or reinstated in their former job class.
- (7) To certify to the Appointing Authority, when a vacant position is to be filled, on written request, the names of the three persons highest on the Employment List for the class. If there is no such list, to authorize a provisional or temporary appointment list for such class. Such temporary provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provisional appointment or serve more than four months as provisional appointee in any one fiscal year unless otherwise approved by the Commission.
- (8) To keep such records as may be necessary for the proper administration of these Rules.
- (9) The Commission may submit periodic reports and/or recommendations regarding the activities of the Commission pertaining to the application of merit principles in personnel administration within the Police Department and Fire Department.

**Section 14. Commission Authority.** The Commission has all powers vested in it under Washington law, which shall be executed in a manner consistent with the Civil Service Acts, the City's Ordinances and these rules.

- (1) The Commission shall afford all parties appearing before it in a contested hearing full opportunity to examine and cross-examine all witnesses and to present any evidence pertinent to the dispute.
- (2) In the course of an investigation or hearing, the presiding officer shall administer oaths, and have authority to compel attendance of witnesses and production of documents pertaining to the hearing.
- (3) The Commission is not bound by the Washington Rules of Evidence, and proceedings may be conducted with informality. The Commission will rely upon such evidence as a reasonable person would find reliable.
- (4) The decisions of the Commission shall be based solely on the record as presented in the hearing; shall be issued within twenty (20) days of the conclusion of the hearing unless extended by stipulation of the parties or on a written order of the Chair; and shall be final and binding upon all parties to the dispute, subject only to appeal as provided by law.

**Section 15. Budget.** The Civil Service Commission shall submit a budget to the City Manager for each fiscal year for which an appropriation is needed to administer these rules. The budget will be incorporated into the City Clerk's budget fund.

**Section 16. City Assistance.**

All employees of the Police Department, Fire Department and the City Clerk's office shall aid in all proper ways in carrying out these Rules and related Rules as may be adopted and amended periodically, and shall afford the Commission all reasonable facilities and assistance in inspecting all public records related to the Commission or any Commissioner, or by the Chief Examiner acting on behalf of the Commission.

- (1) If the Commission finds that a personnel action was discriminatory or that a removal, suspension or demotion was not taken for cause for other than a provisional or probationary employee, the Commission may order appropriate relief, including but not limited to:
  - a. Cease and desist;
  - b. Corrective action such as referral for employment; training; immediate reinstatement or reemployment; restoration of lost wages; restoration of lost service time; and expungement and sealing of records.
- (2) Nothing herein shall prohibit the City and an employee or applicant from negotiating and reaching a mutual settlement prior to Commission action.
- (3) Appeals must be filed in accordance with these Rules and Washington law, and shall not be considered filed until received in writing by the Chief Examiner in the capacity of Secretary of the Commission.

**RULE 3 - GENERAL PROVISIONS**

**Section 1. Appointments to be Based Upon Merit.** All appointments and promotions to positions in the classified service shall be made solely on merit, efficiency, and fitness, which shall be ascertained by open competitive examination and impartial investigation. No person in the classified service shall be reinstated or transferred, suspended, or discharged from any position of employment contrary to the provisions of these rules and the Fire Fighter's Civil Service Act or the Police Civil Service Act, as each may be applicable.

**Section 2. Authority to Fix Salaries Retained.** All employees within the purview of Chapters 41.08 and 41.12 RCW shall be filled by the Appointing Authority with the consent of the City Manager. These Rules shall not infringe upon or diminish such authority that an Appointing Authority may have to fix the salaries and compensation of all employees subject to these Rules (RCW 41.08.110 and RCW 41.12.120)

**Section 3. Payroll -- Certification by Commission.** No officer or employee subject to Chapter 41.08 RCW or 41.12 RCW shall approve the payment of or be in any manner concerned in paying, auditing, or approving any salary, wage, or other compensation, for employees subject to Civil Service unless a payroll, estimate, or account for such salary, wage, or other compensation, containing the names of the persons to be paid, the amount to be to each such person, the services on account of which same is paid, and any other information which, in the judgment of the Civil Service Commission, should be furnished on such payroll, bears the certificate of the Civil Service Commission, or of its chief examiner or other duly authorized agent, that the persons named therein have been appointed or employed in compliance with the terms of Chapter 41.08 RCW and 41.12 RCW and the Rules of the Commission, and that the payroll, estimate, or account is, insofar as known to the Commission, a true and accurate statement. Unless otherwise changed by the Commission, the City payroll officer is designated as the Commission's Authorized Agent. If the Commission finds that any public officer or employee is illegally or improperly appointed, the Commission shall certify such finding to the City Clerk, and the County Prosecutor. The City shall take prompt remedial action to come into compliance with RCW 41.08 and RCW 41.12 and these Rules.

**Section 4. Enforcement.** The Commission may begin and conduct civil suits which may be necessary for the proper enforcement of the Civil Service Act and Rules of the Commission. The Commission shall be represented in such suits by the City Attorney, or in the case of conflict, independent counsel retained by the Commission.

**Section 5. Prohibited Practices.** No Commissioner or any other person, shall, by himself/herself or in cooperation with others, defeat, deceive, or obstruct any applicant or employee in any respect of rights of examination or registration according to the Rules and Regulations, or falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified pursuant to these Rules and Chapters 41.08 RCW or 41.12 RCW, 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, to be examined, registered, or certified, or persuade any other person, or permit or aid in any manner any other person to impersonate another in connection with any examination or registration or application or request to be examined or registered.

The right of any person to an appointment or promotion to any position in the Police or Fire Departments shall not be withheld because of gender, race, color, creed, national origin, political affiliation or belief, marital status, or disability which is subject to reasonable accommodation, nor shall any person be dismissed, demoted, or reduced in grade for such reason.

**Section 6. Political Activity.** No public officer, whether elected or appointed, shall discharge, promote, demote, or in any manner change the official rank, employment, or compensation of any person in the classified service or promise or threaten to do so for giving or withholding, or neglecting to make any contribution of money, or service, or support, or any other valuable thing, for any political purpose.

**Section 7. Violations.** Any person who wilfully violates any of the provisions of Chapter 41.08 RCW or 41.12 RCW shall be guilty of a misdemeanor, and upon conviction thereof, may be punished in accordance with and under state law by a fine of not more than \$100 and by imprisonment in the County jail for not longer than 30 days or by both such fine and imprisonment. The Superior Court shall have jurisdiction of all such offenses. (RCW 41.08.210 and RCW 41.12.210)

**Section 8. Severability and Relationship to the City and Police and Fire Department Rules and Policies.** If any section, sentence, clause, or phrase of these Rules shall be held to be invalid or unconstitutional, the validity or constitutionality thereof shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of these Rules. These Rules shall take precedence over any conflicting City Police Department or Fire Department policy which relates directly to and is inconsistent with these Rules or the proper administration of the civil service system under the jurisdiction of the Commission. Nothing in these Rules shall be construed as limiting the ability of the City and the Police Department or Fire Department from adopting Rules, policies, or regulations which are not inconsistent with the purposes of RCW 41.08 and RCW 41.12 and these Rules.

#### **RULE 4 - CLASSIFICATION**

**Section 1. Classified Service Defined.** The classified service shall include all full-time employees and part-time (less than 80 hours per month) employees of the Fire Department or Police Department, but shall not include emergency employees, grant employees, provisional employees, temporary employees, reserves, and other volunteers.

**Section 2. Classification Schedule.** The Commission shall provide and maintain a detailed schedule of the classification of positions in the classification service in the form of job descriptions.

Such schedule shall be comprised of:

- (1) A grouping of all the classifications by class series or career track under the Port Townsend Civil Service Commission.

**Police Department**

Support Services

Police Clerk  
Parking Enforcement Officer  
Police Administrative Supervisor

Operations

Sergeant  
Officer

**Fire Department**

Support Services

Dispatcher/ Clerk

Operations

Assistant Fire Chief  
Lieutenant  
Fire Fighter / Paramedic  
Fire Fighter/ EMT

- (2) A class title (e.g., Sergeant) shall identify each class; in some cases, a working title may further clarify various position descriptions within each class (e.g., Sergeant assigned to Field Operations).
- (3) Job descriptions set forth the sum and substance of the duties of the positions within each class including the essential job functions, responsibilities, the activities of the classification, and the levels of education and experience necessary for success on the job.

**Section 3. Class Specifications.** The job descriptions of the various positions in the classification schedule shall be used as a guide in the classification of positions and have the following force and effect.

- (1) The job descriptions are descriptive and not restrictive. They are intended to indicate the kinds of positions that are allocated to the several classes as determined by their duties and responsibilities. Job descriptions are to be interpreted in their entirety and in relation to others in the classification schedule. Particular phrases or examples are not to be isolated and treated as a full definition of the class.
- (2) In determining the class to which any position should be allocated, the various descriptions of duties in each class shall be considered as a whole. Consideration shall be given to the duties, specific tasks, responsibilities, qualification requirements and relationships to other classes, as together affording a statement of the employment that is intended to embrace the class.

- (3) Described qualifications commonly required of all incumbents of the different classes such as ability to perform essential job functions, United States citizenship, suitable age, honesty, sobriety and industry, shall be deemed to be implied as qualification requirements for entrants to each class even though they may not be specifically mentioned in the specification.

**Section 4. Employees to Perform Duties of Their Proper Class.** No Appointing Authority shall require or permit an employee to perform duties outside of the proper class, except for limited periods of time and only in emergencies promptly reported to and ratified by the Commission. However, these rules shall not preclude an Appointing Authority from assigning an employee with a disability to perform work in another class during the period of disability, subject to the provisions of Rule 9, Section 12.

**Section 5. Reporting Violations of Classifications Regulations.** Any employee who believes that the duties assigned and being performed are outside the proper scope of the class, shall report the facts to the Commission. The Commission shall investigate fully and shall report its findings to the Appointing Authority and the employee involved.

**Section 6. Reallocation.** Whenever it becomes necessary in the administration of the Fire or Police Departments to change, add to, or take from a position, duties which may change the allocation of the position, the Appointing Authority shall revise the job description to reflect the changes in duties, and shall submit the job descriptions to the Commission with a request to determine its proper class.

**Section 7. Time for Filing Requests for Reallocation.** Requests for reallocation of a position should be made, whenever possible, before the budget estimate is submitted for the succeeding budget period.

**Section 8. Maintenance of Classification Schedule/ Job Description.** The Commission shall be responsible for the proper maintenance of the classification plan so that it will reflect continuously on a current basis, the duties being performed by each employee in the classified service, the class to which each position is allocated and the career track to which each class is allocated. The Commission shall make necessary amendments to the classification schedule including the addition of required new classes, revision of existing classes and deletion of obsolete classes. Changes and reallocations within the classification schedule shall be made as follows:

- (1) The Commission shall analyze the duties and responsibilities as provided in the job description of proposed new positions and using such appraisal as a basis, assign the position to the appropriate class within the classification schedule and the appropriate career track. The Commission shall also determine, after hearing the recommendations of the Appointing Authority, the appropriate minimum qualifications in order to be considered for classification.

- (2) Changes in the duties and responsibilities of a position involving either the addition, reduction, or modification of assignments shall be reported to the Commission by the Appointing Authority. Determination of the nature of work, the general duties, the supervisory responsibility, and selection criteria are the responsibility of the Appointing Authority. If the changes are determined to be permanent and are sufficiently significant to justify reallocation to a different classification, the Commission shall assign the position to the class which is appropriate under the modified circumstances.
- (3) The Commission may periodically review the classification of positions and audit duties and responsibilities and, on the basis of this reappraisal, make such changes as are necessary to keep the classification schedule up to date and in step with current conditions.

**Section 9. Status of Employees Affected by Reclassification.** The status of regular or probationary employees affected by reclassification or reallocation occurring in the administration of the classification schedule shall be resolved in the following manner:

- (1) Any employee with regular status in the classified service whose position is allocated to a class in the classification plan which is of a higher level than the class in which the employee has civil service status shall be considered to be a provisional appointee to the higher class. As such, the employee shall be eligible to compete on a promotional basis for the reallocated position notwithstanding existing employment lists for the higher class; provided, however, that such promotional examinations shall be given, or notice of such examinations shall be published, within 60 calendar days of the effective date of the allocation. The names of such employees who successfully pass the examination for the position shall be placed, in accordance with their rank, on the promotional list which exists for that class, if any. No employee shall be promoted or advanced to a higher class by reason of the employee's position on the appropriate eligibility list. The names of eligible employees shall have probationary status in the class. If the employee is not appointed as a result of the examination, the employee shall be assigned or, upon the approval of the Appointing Authority, be transferred to a vacant position having the same classification as that in which the employee has regular civil service status, or, if no vacancy exists the employee shall be in the same or lower classification in the same career track, for which the employee is qualified according to seniority. If the employee is placed in a lower class, the employee shall be granted status in the lower class without further examination or loss in pay, and the employee's name shall be placed on the appropriate employment list for the higher class in which the employee holds regular status.
- (2) Incumbents of positions which are reallocated to a class which the commission determines to be substantially equivalent to the positions occupied by such personnel at the time reallocation is taken, shall be given regular status in the positions to which they are allocated.

**Section 10. Classification Status of Employees Resulting from Consolidation of Classes.**

When the class of work of an employee is consolidated with another class, the employee shall retain the classification status possessed in the former class prior to the consolidation. The employee's name shall automatically be placed on the appropriate employment lists for the former class and the employee shall be reinstated to a position in the former class should such class be re-established.

**RULE 5 - APPLICATIONS FOR POSITIONS**

**Section 1. Announcement of Examinations.** Public notice of examinations shall be given at least ten (10) days in advance of the last date for filing of applications by publication in one or more newspapers of general circulation published in the County, by posting announcements on bulletin boards in City administration offices and in such other places and in such other manner as the Commission may deem advisable. A copy of promotional examination announcements shall be provided to each classified employee and posted on official bulletin boards of the department and need not be published in newspapers. At the request of the Appointing Authority, or on its own motion, the commission may require public notice in one or more newspapers and/or trade publications outside Jefferson County.

**Section 2. Content of Announcements.** The examination or promotional announcements shall contain:

- (1) Identification and description of the position or job classification which is intended to be filled through examination or promotion;
- (2) The pay of the positions in the classes for which the examinations are to be held;
- (3) The time, place and manner of making application to admission to such examination;
- (4) A schedule of dates, times, locations and relative weights for all elements of the examination or promotional process;
- (5) Specification of the requirements for participation in the examination process including closing dates for filing application; and
- (6) Description of the process to be used for the testing, evaluation, and selection of personnel within the selection process.

At the request of the Appointing Authority, or on its own motion, the Commission may require qualifications for lateral entry, including but not limited to, Washington certification as a police officer or corrections officer, out of state certification as a police officer or corrections officer, years of service as an officer, or other special skills, experience, or qualifications.

**Section 3. Filing of Applications.** All applicants must be made upon the application form prescribed by the Commission, filled out completely as directed, and filed with the Chief Examiner on or before the closing date specified in the examination announcement. Each application must be signed by the applicant. Such signature constitutes a certification that all information contained therein is true and complete to the best of the knowledge of the applicant. The Commission may conduct pre-employment investigations to verify the past employment record and to obtain other information relating to the qualifications of the applicant. The Commission may require an applicant to provide substantiation of statements or qualifications.

**Section 4. General Requirements for Filing Applications.**

- (1) No person shall be admitted to any examinations for a position in the classified service until they have filed a properly completed application upon the form provided by the Commission.
- (2) Every person making application must meet the requirements as shown in the announcement of examination for the particular position for which the applicant is applying.
- (3) The Commission, after securing the recommendations of the Appointing Authority, may prescribe limits of minimum age and such other specific requirements, physical or otherwise, as in its judgment are required by the nature of the work to be performed.
- (4) An applicant for a position of any kind in the classified service must be a citizen of the United States who can read and write the English language. (RCW 41.08.070 and RCW 41.12.070)

**Section 5. Rejection of Applicants.** The Commission may reject any application or applicant for cause, among which the following shall be sufficient.

- (1) That the applicant fails to meet any of the published requirements for the class for which application is made.
- (2) That the applicant is not of sufficient age.
- (3) For any of the causes enumerated in Rule 10, Section 4.
- (4) That the applicant has made a false statement in the application with regard to any material fact, or failed to furnish true and complete statements in the application or on an interview. That the applicant failed to properly complete the application form provided by the Commission.

- (5) That the applicant, after notification, did not promptly appear at the proper time and place designated for any portion of the examination.
- (6) That the applicant practiced or attempted to practice fraud or deception in connection with the filing of an application.
- (7) That the applicant used or attempted to use political pressure or bribery to secure an advantage in testing or appointment.

**Section 6. Postponement and Cancellation of Examinations.** Any examination may be postponed or canceled at the discretion of the Commission. In any case, each applicant shall be notified of the postponement or cancellation.

**Section 7. Rejected Applications.** Whenever an application is rejected, a timely notice of such rejection shall be forwarded to the applicant which shall set forth the reason for such rejection. Any application which is rejected because of defects or omissions may be corrected by the applicant at the Commission office at any time prior to the date of the examination. Any person whose application has been rejected by the Chief Examiner may appeal such action to the Commission subject to the rules and procedures contained in Rule 11, Section 3.

**Section 8. Freedom From Bias.** The application form shall contain no question so formed as to elicit any information concerning sex, political affiliation, racial characteristics, physical disability, or religious affiliations of the applicant.

## **RULE 6 - EXAMINATIONS**

**Section 1. Examinations Shall be Impartial.** All examinations shall be impartial and shall relate to those matters which test fairly the capacity and fitness of the candidate to discharge efficiently the duties of the position to be filled. Examinations may be assembled or unassembled and may include written, oral, physical, or performance tests or any combination of these. They may take into consideration such factors as education, experience, aptitude, knowledge, character, physical abilities, or any other qualifications or attributes which, in the judgment of the Commission, enter into the determination of the relative fitness of the applicants.

### **Section 2. Examination Process.**

- (1) The Chief Examiner shall formulate, validate and conduct competitive examinations for entrance and promotion in accordance with the principles and requirements of equal employment opportunity laws, particularly those related to sex and disability. The goal of recruitment, and of all steps of the examination process, shall be to serve the dual purpose of providing the best possible candidates for positions while ensuring that the equal opportunity laws applicable to the City are met.

- (2) Examination procedures will be modified to accommodate disabled persons consistent with the provisions of the Americans With Disabilities Act.
- (3) Tests shall be open to all persons whose applications demonstrate the required qualifications and who may be appointed to a position in the class for which a list is to be established, except as otherwise provided in these Rules. The Commission shall approve such requirements as the Appointing Authority may establish as minimum qualifications and requirements for each classification. These may relate to experience, training, physical condition and health, and other factors which relate to the ability of a candidate to perform effectively the duties of a classification.
  - a. Who May Compete. Examinations designed to establish entrance lists shall be open to all persons who meet minimum qualifications and other requirements for the class as stated in the specification and as set forth in the announcement.
  - b. Competition in Promotional Examinations. Promotional examinations shall be open to current employees who have acquired regular status, meet the minimum qualifications and tenure as stated in the job description and as set forth in the announcement.

### **Section 3. Examination Administration.**

- (1) Scheduling of Examinations. Examinations shall be scheduled at such a time or times as the Chief Examiner or the Commission may approve. The Chief Examiner or Commission may postpone an examination or an individual's taking of an examination if the best interests of the City will be served thereby.
- (2) Preparing and Conducting Examinations. The Chief Examiner shall obtain from an appropriate source, prepare or cause to be prepared all examinations, and the testing process shall be approved by the Commission prior to the holding of the examination.
- (3) Testing Fees. Reasonable testing fees may be established by the Chief Examiner.

**Section 4. Character of Examinations.** Tests shall be job related and competitive, and must be designed to determine the qualifications, fitness, competence and ability of candidates to perform the duties of the class for which a list is to be established. They may be written, oral, in the form of a demonstration of skill, an evaluation of training and experience, a physical abilities test where necessary for the duties of the position, or any combination of such types. They may take into consideration education, experience, aptitude, capacity, knowledge, character, length and quality of service, and other qualifications to determine the relative fitness of the candidates, and shall not be related to political or religious preference. Applicants may be required to pass a

background investigation. Once conditionally offered employment, applicants may be required to pass a pre-placement medical examination administered by a licensed physician, a physical abilities test, a psychological exam, drug test and/or polygraph exam.

**Section 5. Physical Abilities Examination.** Any physical abilities examination will be graded on a pass/fail basis with consideration of the ability to perform essential job functions. A person with disability may request reasonable accommodation and a determination will be made on a case-by-case basis whether such accommodation is consistent with performance of essential job functions, business necessity and the safety of the public and the applicant pursuant to the requirements and provisions of the Americans With Disabilities Act.

**Section 6. Medical Examinations.** Following initial, conditional selection from a list, applicants for positions in the classified service may be required to undergo psychological and/or medical examinations prior to actual employment to determine physical and mental suitability and fitness to perform work in the position appointment is to be made. Such exams shall be paid for by the applicable Department and shall remain the custody of the applicable Department.

All employees in the classified service during their period of employment may be required by the Appointing Authority or the Commission, to undergo periodic medical examinations at the expense of the Appointing Authority or Commission to determine their continued physical or mental suitability to perform the work of the position in which they are employed. The Appointing Authority or Commission shall notify the employee in writing of the reasons for the examination.

**Section 7. Identity of Examinees Concealed.** The identity of all persons taking a competitive written test shall be concealed from the examiners by the use of an identification number which shall be used on all examination papers. This number shall be used from the beginning of the examination until the papers have all been rated. Any papers carrying the name of the applicant, or any other identification mark, or any candidate who reveals the identification number to the Commission or any member of its staff directly or indirectly shall be disqualified and the candidate so notified.

**Section 8. Rating of Examinations.** The Chief Examiner shall determine a final score for each applicant's examinations. The weight given to any portion of the selection process shall be determined by the Commission prior to announcing the test. The Commission may determine the minimum passing grade on any portion of the test and /or the final combined test score to ensure obtaining the best qualified applicants. The Commission may also elect to determine the final passing score based upon the number of candidates necessary on an employment list to provide the Appointing Authority sufficient eligible candidates for a period of at least one year or as determined by the Commission. Any candidate who fails to attain at least this minimum grade shall be considered to have failed the examination and shall not be examined on any further parts.

- (1) **Method of Rating.** In all tests, a minimum rating shall be established which is required to achieve eligibility. Such minimum ratings may also apply to the

rating on any parts of the test, and candidates may be required to obtain minimum ratings on separate parts in order to receive passing grades, or to be rated on the remaining parts of the tests. The final earned rating of each competitor shall be determined by adding the earned rating on each part of the test in accordance with weights established prior to the date of the test.

- (2) Rating of Experience and Training. When a rating of experience and training forms a part of a test, the examiner shall develop procedures for the evaluation of those factors that will serve to assist in the selection of the best qualified candidates. Procedures that are adopted shall give due regard to quality, and amount of experience, and to the pertinency and amount of training. In establishing the value that a rating of experience and training shall bear to the total test, and in determining the length of time for which experience credit shall be awarded, consideration shall be given to the amount of learning time required to perform efficiently the duties of the position.

**Section 9. Veteran's Preference.** In all competitive examinations, the Commission shall give a preference status to all veterans as defined in RCW 41.04.005, by adding to the final passing mark, grade, or rating only, a percentage in accordance with RCW 41.04.010.

**Section 10. Establishing Answer Key/ Challenge to Test Answers.** When the nature of the examination permits, the Commission may provide for a review by the candidate of the questions and the answers key. Such review shall be for the period of seven days immediately following the examination. During this period, any candidate may review the answer key in the presence of the Commission or its authorized representative, and discuss the answers to which the candidate takes exception. No notes shall be made by the candidate. Should a candidate, after such review and discussion, wish to challenge any answer contained in this key, the candidate shall submit to the Commission in writing authoritative proof of the invalidity of the answer the Commission regards as most correct. Any such written challenges must be received by the Chief Examiner within seven days of the date of the exam, and shall be considered by the Commission. If the Commission is satisfied as to the validity of the candidate's point of view, the proposed changes shall be made a part of the examination answer key. The original examination answer key, together with any changes, shall constitute the final answer key for the exam. The final examination answer key shall be used in scoring all examination papers.

**Section 11. Notification of Results/Errors in Scoring.** Each applicant taking the examination shall be given written notice of the results thereof, and if successful, of the final earned rating and relative position on the employment list. Any applicant shall have the right to personally inspect the applicant's written examination papers within seven calendar days after the posting of the employment list resulting from the examination. The purpose of such examination shall be to check for errors in grading or rating and shall not include an inspection of the test questions or answers. Such personal inspection shall be made in the presence of the Chief Examiner or an authorized representative of the Commission, and no notes shall be made by the applicant. An error in grading or rating, if called to the attention of the Commission within the inspection period, shall be corrected. Corrections shall not, however, invalidate an appointment previously

made, except that, in the case of a promotional examinee, any error discovered within seven calendar days after the posting of the promotional list shall be corrected, and any promotions made on the basis of the error shall be adjusted accordingly.

**Section 12. Time Interval.** Any person who competes in an examination for a particular class shall not be eligible to compete in another examination for the same class within six months of the first examination unless otherwise authorized by the Civil Service Commission.

**Section 13. Retention.** Examination material shall be retained for that period required by state law.

**Section 14. Continuous Testing**

- (1) Continuous Testing Eligibility List. The Secretary/Chief Examiner, following approval by the Commission, may establish any eligibility list for use by applicants tested through and certified for eligibility through this continuous testing process.
- (2) Continuous Testing Defined. Continuous testing shall mean a written examination or a standardized physical fitness/agility test conducted pursuant to set and commonly applied standards whose results shall be valid for a period of one calendar year from the date of certification to a Continuous Testing Initial Eligibility list. Continuous testing may, at the discretion of the Commission, be offered through the Secretary/Chief Examiner or pursuant to a subscription testing agreement.
- (3) Certification. Applicants certified pursuant to a continuous testing process shall be placed on a Continuous Testing Initial Eligibility list. Certification shall be in accordance with the rules and regulations of this Commission. As each applicant is placed in accordance with his or her scores and veteran's preference (if applicable) the placement of all others on the list shall be adjusted.
- (4) Additional Testing. Applicants placed upon this eligibility list shall be subject to such other testing processes as the Commission shall direct, including but not limited to oral boards and any other testing process conducted by the Commission or by a subscriber pursuant to Rule 7.
- (5) Removal of Names. The names of candidates certified to this eligibility list shall remain on the list until either certified to a secondary hiring list following an oral board or other testing as established by the Commission, the expiration of one year from the date of certification or until the candidate has been hired by another public safety organization. Names may be removed upon notification by the candidate, upon the written

notification of another public safety employer or an entity providing subscription testing.

## **RULE 7 -SUBSCRIPTION TESTING SERVICES**

**Section 1. Subscription Testing Services Authorized.** The secretary, following approval by the Commission, may enter into contracts with one or more Subscription Testing Services.

**Section 2. 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.

**Section 3. Process Verification.** The Secretary shall verify that the Subscription Testing Service provides qualified testing resources that are content valid and job-related.

### **Section 4. Certification**

- (1) 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.
- (2) 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.
- (3) Candidates qualified for appointment pursuant to the procedures established in this Rule shall be placed in a separate register, entitled “Contract Register.” 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 Appointing authority for consideration, shall be removed from the eligible register.

**Section 5. 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, and medical testing.

## **RULE 8 - EMPLOYMENT LISTS**

**Section 1. Establishment of Lists.** The Commission shall establish and maintain lists of eligibles necessary to provide an adequate supply of qualified candidates for positions in the classified service. Lists shall be established by class of employment.

- (1) Employment Lists. An employment list shall be established and maintained for each class of positions to be filled on an entrance basis and shall consist of the names of all persons who have passed the examinations for that class. At the request of the Appointing Authority, subject to the provisions of Rule 5, section 2, the Commission may also establish and maintain lateral employment lists for each class of positions to be filled on an entrance basis.
  - a. Laid-off Employees. Each employment list shall be headed by the names of persons who have been classified employees and who were laid off from a position in that class because of shortage of funds, lack of work, abolishment of position, or for other reasons beyond the control and through no fault of the employee.
  - b. Employees Returning from Leaves of Absence. Following the names of employees described in subparagraph (2) (a) above, names of employees returning from a leave of absence greater than four months as established in Rule 9, Section 16, shall be placed on the list in order of the date of their request to return unless provided otherwise in a written agreement created pursuant to Rule 8.
  - c. Eligibles. Following the names of employees described in subparagraph (2) (a) and (b), names of eligibles shall be placed on lists in the order of their final earned ratings plus any preference credits to which they may be entitled. Where ties exist, names shall be arranged in order of the candidate whose application was received first.
- (2) Promotion Lists. A promotion list shall be established and maintained for each class of positions to be filled on a promotional basis and shall consist of the names of all employees who have passed a promotion test for the class. Where there are less than four positions in a promotive classification, a promotion list for such classification need not be established and maintained until such time as it is necessary to fill a vacancy therein by appointment in accordance with these Rules.
  - a. Demoted Employees. Each promotion list shall be headed by the names of persons who have been classified employees and who were demoted or reclassified to a lower class from a position in that class because of shortage of funds, lack of work, abolishment of positions, or for other reasons beyond the control and through no fault of their own.

- b. Employees Returning from Leaves of Absence. Following the names of employees described in subparagraph (2) (a) above, names of employees returning from a leave of absence greater than four months as established in Rule 9, Section 16 shall be placed on the list in order of the date of their request to return unless provided otherwise in a written agreement prepared pursuant to Rule 9.
- c. Eligible Employees. Following the names of employees described in subparagraph (2) (a) and (b) above, names of eligibles shall be placed on lists in the order of their final earned ratings.
- d. Career Track. Promotions within the classified service shall be made from within the career track whenever possible. The Appointing Authority may at his or her discretion, request the Commission open promotional exams to candidates outside the classified service under any of the following circumstances:
  - 1. When there are fewer than three (3) successful applicants after testing;
  - 2. When there are fewer than three (3) applicants with more than five (5) years police service for police positions, or more than five (5) years fire service for fire positions; and
  - 3. When there are fewer than three (3) applicants who have served more than four (4) years with the Port Townsend Police Department, for police positions, or more than four (4) years with the Port Townsend Fire Department for fire positions.

**Section 2. Duration of Lists.**

- (1) Employment Lists/Lateral Employment Lists. The duration of an employment list or lateral employment list is limited to twenty-four (24) months from the date the list was established. An employment list or lateral employment list may be extended not to exceed an additional twelve months if, in the opinion of the Commission, the best interests of the classified service would be served thereby. An employment list or lateral employment list may also be canceled when it contains less than three. Except for individuals on layoff status or returning from a one-year leave of absence, eligibles remaining on the employment list when the list expires or is canceled shall be re-tested in order to be placed on the new employment list.
- (2) Promotion Lists. The duration of a promotional list is limited to eighteen (18) months from the date the list was established. A promotion list may also be canceled when less than three eligibles remain on the list to be certified by the

Commission for an existing vacancy. Except for individuals on layoff status or returning from a leave of absence greater than four months and required to return to the eligibility list, eligibles remaining on the employment list when the list expires or is canceled shall be retested in order to be placed on the new employment list.

### **Section 3. Removal of Names.**

- (1) The Commission may remove a name from a list permanently or temporarily for any of the reasons set forth in Rule 5, Section 4 and 5, and for the following reasons:
  - a. Certification and appointment to fill a classification position.
  - b. Failure to respond within ten days from the date of mailing to a written inquiry of the Chief Examiner or an Appointing Authority relative to availability for appointment.
  - c. Failure to respond to notice to appear for employment interview within the time prescribed in the notice.
  - d. Refusal of offer of an appointment. The Commission may consider mitigating circumstances.
  - e. Failure to report for duty within the time specified by the Appointing Authority.
  - f. Expiration of the term of eligibility on the list.
  - g. Failure to maintain a record of his/her current address with the Commission as evidenced by the return of a properly addressed, unclaimed letter, or other evidence.
  - h. Willful violation of any of the Rules of the Commission.
  - i. In case of promotion lists, separation from the classified service.
  - j. Upon a finding by the Chief Examiner or Commission that the person is not qualified to perform the duties of the class.
  - k. Upon written request of the eligible to have his/her name removed.
  - l. Making a false or misleading statement on an employment application, or for attempted deception or fraud in connection with any test.

- m. Lack of physical ability to perform the job with reasonable accommodation, or lack of psychological suitability.
  - n. Failure of any portion of an examination, including but not limited to psychological, polygraph, medical, or background.
- (2) Notification of those whose name is removed from a list shall be promptly made by the Chief Examiner in writing, and mailed to the address of record with the Civil Service Commission. The reason for such removal shall be given.

**Section 4. Restoration of Names to Eligible Lists.** An eligible whose name is removed from a list may make a written request to the Chief Examiner for restoration of the name to the list. The request must be postmarked within 15 days of mailing by the Commission of notice of removal. The request must specify the reasons advanced for the requested restoration. The Chief Examiner, subject to appeal to the Commission, shall determine whether evidence submitted justified approval of the request. The Commission may restore the name to the employment list.

**Section 5. Availability of Eligibles.** It shall be the responsibility of the eligibles to notify the Commission in writing of changes in address, or other changes that may affect availability for employment. However, the Chief Examiner may periodically circulate lists or use other methods to determine current availability of eligibles.

## **RULE 9 - APPOINTMENTS, PROMOTIONS, AND TRANSFERS**

### **Section 1. Appointment.**

- (1) The Appointing Authority has the right to not fill any subordinate position under his or her authority due to economy, lack of funds, operational efficiency, or other good cause. A vacancy shall not be authorized and shall not be filled until it is declared as a vacancy by the Appointing Authority.
- (2) All appointments to classified service shall be made in accordance with these Rules. When a classified position is to be filled, the names of the five highest ranking eligibles for the class of the position shall be considered by the Appointing Authority. If the employment list contains names of individuals either laid off or demoted through no fault of their own, or returning from a leave of absence, the Commission shall certify the top name on the list for each vacant position.

**Section 2. Certification.** No person shall be appointed or promoted to a position in the classified service unless certified as eligible, except on a temporary basis as provided herein.

- (1) Employment Lists. Upon receipt of a request for certification of eligibles, the proper number of available eligibles from the appropriate list shall be certified by the Chief Examiner. If no appropriate list exists, the Commission shall determine the appropriateness of authorizing a provisional appointment as provided by this Rule. If no names of laid off employees exist for the class at the election of the Appointing Authority, certification may be made from the promotion list for the position or from the employment list or lateral employment list for the position.
- (2) Order and Number of Names Certified. Names shall be certified in order of standing on the list. The number of names certified from the employment lists shall be five (5) plus one for each additional vacancy. From the promotional list, the number of names certified shall be five (5) plus one for each additional vacancy.
- (3) Notification of Eligibles. Whenever the name of an eligible is certified, the Commission shall provide for appropriate notification to such candidate.
- (4) Additional Certification to a Vacancy. Additional names may be certified to a vacancy based upon a written report from the Appointing Authority that in the Appointing Authority's judgment, one or more of the eligibles certified would not be suitable for the position that is to be filled. Only job related reasons shall be considered as valid reasons for rejection of a candidate.
- (5) Action Required of Appointing Authority. Reports of actions taken on certified eligibles by the Appointing Authority shall be recorded in the records of the Commission. Fair consideration must be given to all names certified. The following actions by the Appointing Authority or his/her designee are allowed and/or required:
  - a. Conduct a background investigation to determine the eligible person's suitability for the position.
  - b. Personally interview each candidate utilizing job related criteria.
  - c. Request additional names to replace names of eligibles who:
    1. Decline or otherwise waive consideration.
    2. Failed to reply within the specified period to appear for consideration.
    3. Were found to be not satisfactory for valid and pertinent reasons directly connected with the position as determined by the Commission from a written report by the Appointing Authority.

- d. Notify the Commission of each selected candidate and, as a condition of and prior to appointment, request a medical exam, and a psychiatric exam, to verify psychological suitability for appointment as a condition of employment. Request a polygraph exam.
  - e. Appoint the certified candidate following satisfactory review of information provided through this Rule.
- (6) Restoration of Names to List. The names of those persons certified but not appointed shall be restored to the lists unless disqualified or rejected.

### **Section 3. Probation.**

- (1) All classified positions shall include a probationary period to determine the employee's merit and fitness for the job. Probation is considered as part of the regular examination process, and shall be in effect for twelve (12) months **[excluding time spent at the Criminal Justice Training Academy for Police Officers]** \* actually served following appointment for uniformed personnel and six (6) months for non-uniformed personnel, and shall extend until the Appointing Authority releases the probationer from probation based upon a favorable

**\* Change approved by Civil Service Commission, must be approved by bargaining unit**

performance evaluation which shall be issued at or near the end of the last month of the probationary period. An additional twelve (12) month extension of probation for uniformed employees may be agreed upon between the Appointing Authority and the employee and the union representing the employee under the provisions of the applicable collective bargaining agreements.

- (2) A probationary employee in an initial appointment within any career track may be dismissed at any time without cause during probation if, in the sole discretion of the Appointing Authority, continuance in service is not in the best interest of the Police or Fire Departments, as applicable.
- (3) A probationary employee in a promoted position who does not fulfill the requirements of the position shall have rights to return to the former classification.

**Section 4. Provisional Appointment.** Whenever there are urgent reasons for filling a regular position in a class for which appropriate employments lists are not then available, the Commission may authorize the Appointing Authority to fill the vacancy by a provisional appointment. In such case, the Commission may recommend persons to the Appointing Authority or may approve the appointment of a person nominated by the Appointing Authority provided that the person nominated possesses the qualification essential to the performance of the work of the class. Provisional appointments shall be terminated at such time as an

appointment can be made from an employment list and shall be for not longer than four months except upon approval of the Commission. No person shall receive more than one provisional appointment or serve more than four months as provisional appointee in any fiscal year except upon approval of the Commission. Provisional appointees may be discharged at any time for any reason and shall have no appeal rights.

**Section 5. Appointments to Vacancies Resulting from Regular Employees on Indefinite**

**Military Leave of Absence.** A position vacant as the result of a regular employee being on indefinite military leave of absence shall be considered as a regular position and shall be filled in the manner provided for in these Rules for employees taking a leave of absence for one year under Section 16 or in a manner consistent with applicable state and federal laws for military leave.

**Section 6. Appointments to Vacancies Resulting from Regular Employees on Leave of Absence Without Pay for One Year.**

A position vacant as a result of an employee being granted leave of absence without pay for a period greater than four months shall be considered as a regular position, and shall be filled in the manner provided for in these Rules. Appointments to vacancies created as a result of an employee being granted leave of absence for more than four months shall be temporary and may be filled by the Appointing Authority from the employment list or a temporary appointment with the approval of the Commission.

**Section 7. Transfers.** A position may be filled by transferring an employee after taking into consideration the affected employee's preference as far as is practicable. Requests for transfer made by an employee shall be executed in writing prior to the proposed effective date of the transfer.

**Section 8. Acceptance of Provisional Appointment.** The acceptance by an eligible of a provisional appointment shall not affect the eligible's standing on the eligible list for regular appointment. Such service shall not be counted as part of the probationary period in the event of appointment to a regular position.

**Section 9. Emergency Appointment.** Whenever due to lack of time or otherwise it is impossible to secure the services of persons through the Civil Service Commission, the Appointing Authority may appoint an emergency employee, who may or may not be on any eligibility list, in order to meet the immediate requirements of emergency conditions such as riots, natural disasters, or search and rescue operations. Within 72 hours, all such appointments shall be reported to the Commission. The Commission may disallow or terminate any such appointment at any time.

**Section 10. Part-Time (Extra Help) Appointments.** Appointments to a part-time position (20 or fewer hours of regularly scheduled work per week) are not subject to these Rules. Such appointments shall not be used to circumvent the intent of these Rules.

**Section 11. Temporary Appointments.** If an employee is needed for a temporary period, the Appointing Authority shall attempt to appoint a candidate from an existing list of other

individuals who possess the needed qualifications. The duration of a temporary appointment shall be limited to the period of need, but shall not exceed four (4) months. A temporary appointment may be extended for up to an additional eight (8) months subject to the approval of the Commission. The acceptance or refusal of a temporary appointment shall not affect an eligible's standing on an appointment list. The period of temporary service shall not constitute a part of a probationary period. Successive temporary appointments to the same position shall not be made so as to circumvent a probationary appointment of qualified candidates.

**Section 12. Disability Appointments.** An employee temporarily disabled, not to exceed three (3) months, as a result of an on - or off-the-job injury or illness, may be returned to duty and be assigned portions of the employee's regular duties or other duties either within the employee's job class or outside the employee's job class consistent with the physical ability and qualifications of the employee. Such temporary assignments may be made in lieu of regular Civil Service appointment procedures for permanent appointments and may be made at the discretion of the Appointing Authority. The employee shall be returned to a position in the employee's regular classification when physically able to perform the duties of the position. Disability reassignments may be extended for additional three (3) month periods subject to review by the Commission. Decisions made relative to this section shall be based upon written recommendation of the employee's and /or City's physicians. Failure of the employee to obtain and cooperate with such medical evaluation shall be cause for discontinuing or declaring a disability appointment.

**Section 13. Appointment to Exempt Positions and Return to Classified Position.** Any classified employee may take an appointment in an exempt position in the same City and maintain the right to return to his or her classified position or to a like position at the conclusion of such appointment unless the employee has been terminated from the exempt position for cause. Such employees must apply to return to classified service within 30 calendar days of:

- (1) Terminations of employment in such exempt position; or
- (2) Termination of employment in any other exempt position in which the employee subsequently serves provided there was no break in service with the City of more than 30 calendar days.

Upon his or her request for return to classified position, the employee's seniority standing and benefits shall be computed on the same basis as through he or she had rendered continuous service in the classified position from which he or she was appointed during the time of exempt appointment, with a deduction of benefits, computed on the basis of service in a classified position, accrued during the time of exempt appointment.

**Section 14. Appointment of Classified Employee to a Position Outside of the Employee's Present Career Track.** When a classified employee accepts a position in a class outside of his/her present career track due to eligibility on an employment list, the employee may return to his/her previous position only after he/she has successfully retested for his/her former position, is

placed on the employment list for that position, is certified by the Commission, and is approved by the Appointing Authority to return to his/her former position.

**Section 15. Seniority.** Seniority as used in these Rules shall be applied as follows:

- (1) Date of seniority shall mean the date of hiring in the classified service to a position within the employee's career track, as defined in Rule 4. Seniority shall not transfer between career tracks. Provisional, temporary or emergency appointments shall not be included when calculating the seniority date.
- (2) Classified employees promoted within career tracks shall continue to gain seniority within all subordinate classifications which the employee has held in that career track.

**Section 16. Leaves of Absence.** Leaves of absence, with or without pay, may be approved by the Appointing Authority to any classified employee with the following restrictions:

- (1) Leaves of absence for one year. An employee receiving a leave of absence for one year shall be required to make a written request to the Appointing Authority to return to duty within one year from the date the leave started. Failure to make a written request within one year shall result in termination of the employee. Upon a request to return made by the employee, the Appointing Authority shall return the employee to the employee's normal position, a similar position in the same classification, or a lower position for which the employee is qualified (within the same career track) when the first vacant position is filled by the Appointing Authority. The employee on leave shall not displace a current classified employee.
- (2) Return of employees granted one year's leave of absence shall be subject to the provisions of Rule 8, Section 1. Employees who have properly requested return to work and, because of non-availability of vacant positions, have been off the job for more than eighteen (18) months, may be required by the Appointing Authority to successfully complete a psychological, polygraph, medical and/or physical fitness examination prior to returning to work.
- (3) Leaves of absence for less than one year.
  - a. Leaves of absence up to four months. An employee receiving a leave of absence for less than one year shall be required to submit a written request for return to work to the Appointing Authority prior to the expiration of the leave period. Upon receipt of a proper request and upon the expiration of the leave period, the Appointing Authority shall return the employee to his or her regular position or a similar position within the same classification. Failure to request return to work within the specified period shall result in termination of the employee.

- b. Leaves of absence between four months and one year. An employee receiving a leave of absence for a period between four months and one year shall be required to submit a written request for return to work to the Appointing Authority prior to the expiration of the leave period. Based upon the circumstances of a specific case and receipt of a proper request, a written agreement between the Appointing Authority and the employee may provide either for a return of the employee to his or her regular position or a similar position within the same classification or, in the alternative, a return of the employee to his or her normal position or similar position in the same classification or a lower position for which the employee is qualified (within the same career track) when the first vacant position is filled by the Appointing Authority. The employee on leave shall not displace a current classified employee.

## **RULE 10 - TENURE, DEMOTION, SEPARATION, SUSPENSION**

**Section 1. Tenure of Office.** The tenure in office of every regular employee shall be conditional upon good behavior and the satisfactory performance of duties. This provision, however, shall not be interpreted to prevent the separation of an employee for cause, or to create a position for an employee in an exempt position returning to classified status, when made in accordance with these Rules, or because of lack of funds or curtailment of work.

If a position is created for return of an exempt employee, then the order of layoff shall be based on seniority.

**Section 2. Employee Conduct Generally.** The expected standard of conduct for all employees in the civil service shall be consistent with and in the public's interest as opposed to the individual interests. Therefore, in order to render the best possible service to the general public and to reflect credit on the civil service in the Police Department and Fire Department, high standards of conduct are deemed essential. The tenure of every employee shall be conditioned on good conduct and satisfactory performance of duties.

**Section 3. No Removal, Suspension, or Demotion Except for Cause.** No person in the classified service who has been appointed to a position and who has successfully completed the probation period, or inducted into civil service under provisions of these Rules, shall be suspended, removed, or demoted except for cause, and only upon written petition of the Appointing Authority or any citizen or taxpayer; which written petition shall be served on the accused and duplicate filed with the Civil Service Commission.

**Section 4. Causes Enumerated.** Any person appointed to a position in the classified service may be removed or discharged, suspended without pay, demoted or reduced in pay or, be deprived of vacation privileges for any of the following reasons:

- (1) Incompetency, inefficiency, or inattention to, or dereliction of duty;
- (2) 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 one's self; or any willful violation of the provisions of this act or the Rules and Regulations to be adopted hereunder;
- (3) Mental or physical unfitness for the position which the employee holds;
- (4) Dishonest, disgraceful, or prejudicial conduct;
- (5) 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;
- (6) Conviction of a felony, or a misdemeanor involving moral turpitude;
- (7) Any other act or failure to act which in the judgment of the civil service commission is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service, including but not limited to:
  - a. Improper or unauthorized use of City vehicles, equipment, or supplies;
  - b. Claim of sick leave under false pretenses, misuse of sick leave or demonstrated inability to attend work regularly;
  - c. Absence from duty without authorized leave;
  - d. Violation of safety rules;
  - e. Violation of any provision of work rules set forth in the policies and procedures of the Police Department or Fire Department, as applicable, and conduct unbecoming a police officer or fire fighter.

**Section 5. Reduction of Force.** The Appointing Authority may lay off any employee, after prior notice in writing, without prejudice, because of lack of funds or curtailment of work. No employee, however, shall be laid off while there are provisional employees, or employees with less seniority serving in the same classification. The order of lay off due to reduction of force shall be based upon seniority and shall be consistent with the provisions of the applicable bargaining agreement for the Department involved.

**Section 6. Demotion.** The placement of a classification employee into a demoted position within a lower classification, whether voluntary or involuntary, shall be consistent with the Police Department, Fire Department, or City-wide layoff policy.

An employee may make a request in writing to the Appointing Authority for demotion from a position in one class to a position in a class of lower pay grades within the same career track if the employee meets the minimum qualifications for such classification. If the employee is qualified for a position in such classification, the Commission may approve the request, provided it would not result in the layoff of another employee.

**Section 7. Dismissal.** The Appointing Authority may dismiss for cause any regular employee.

- (1) When an Appointing Authority believes cause for dismissal exists, the Appointing Authority shall give the employee, whose dismissal is under consideration, written notice containing:
  - a. A statement of improper conduct, inadequate performance, or other cause for discipline engaged in by the employee; and
  - b. A statement that dismissal is being considered as a possible sanction to the stated improper conduct, inadequate performance, or other cause; and
  - c. A statement of the time within which the employee may choose to respond to the statement of cause and discipline under consideration.
- (2) An employee who has been notified that dismissal is under consideration must be given at least five (5) days prior to the effective date of such dismissal, to respond to the statements in the notice. An employee may then be dismissed if:
  - a. The employee has responded to the statements in the notice that dismissal is under consideration and the employee's response has been received and reviewed by the Appointing Authority; or
  - b. The employee has not responded to the statements in the notice within the time stated in the notice that dismissal is under consideration.
- (3) Dismissal shall be by written notice to the employee and the Commission setting forth the cause for dismissal. Dismissal may be effective upon delivery of notice of dismissal to the employee or upon any stated time thereafter.
- (4) The Appointing Authority may suspend an employee with or without pay during the time to respond to a notice that dismissal is under consideration if the Appointing Authority believes the good of the service requires the immediate separation of the employee from the employee's assignment. Prior to suspending an employee without pay, the Appointing Authority shall provide the employee

notice that such action is under consideration and a statement of reasons, and afford the employee the opportunity to explain why the employee should not be suspended without pay, if such suspension will result in a loss of pay prior to the time when the employee's response to the notice of dismissal would otherwise be due and responded to.

## **RULE 11 - PROBATION**

**Section 1. Probation Period.** To enable the Appointing Authority to exercise a choice in the filling of a position, no appointment, employment, or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of probationary service as provided for in Rule 9, Section 3 or the applicable collective bargaining unit agreement.

**Section 2. Termination of Probationary Employees.** During the period of probationary service, the Appointing Authority may terminate the employment of any person certified to him/her, during the performance test thus afforded, upon observation or consideration of the performance of duties, the Appointing Authority determines such person is unfit or unsatisfactory for service in the office. There shall be no obligation to establish cause when terminating a probationary employee.

## **RULE 12 - APPEALS**

### **Section 1. Bargaining Unit Agreements; Election of Remedies**

- (1) It is specifically and expressly understood and agreed that exercising the right of appeal set forth in these Rules constitutes an election of remedies and a waiver of any and all rights by the appellant, if applicable, contained in the grievance procedures of the applicable collective bargaining agreement. Likewise, a grievance before the bargaining unit shall constitute an election of remedies and a waiver of the right to go through the appeal procedure set forth in these Rules. All grievances and appeals shall be governed by the grievance and arbitration section of the applicable bargaining unit agreement (in the case of an election to proceed pursuant to the associated bargaining unit agreement) or the Civil Service Rules (in the case of an election of remedies through the Civil Service Commission). The election of remedies must be made no more than fifteen (15) calendar days following the alleged occurrence or notice of action, whichever is later. Notwithstanding any provisions herein to the contrary, all employees who believe they are aggrieved by any management decisions or actions are encouraged to take advantage of the informal dispute resolution option set forth in the bargaining unit agreements.

### **Section 2. Allocation Appeals**

- (1) If an employee, by reason of reclassification, loses employment in the classified service, such employee shall have the right of appeal to the Civil Service Commission under the provision in accordance with the procedures of Section 2 of this Rule.
- (2) If an employee believes the position has been improperly allocated or reallocated to a class, the employee may appeal to the Commission. The procedure for such appeals shall be as follows:
  - a. The appeal shall be filed no later than fifteen (15) days after the allocation approval;
  - b. The appeal shall set forth the reasons therefor;
  - c. The appellant shall file the original of the appeal with the Commission and a copy with the Appointing Authority;
  - d. The Commission shall consider all such appeals and shall provide reasonable opportunity for each appellant and the Appointing Authority to be heard;
  - e. The Commission shall notify, in writing, the appellant and the Appointing Authority of its decision, which shall be final. Any decision of the Commission, under this provision, which allocates a position of an employee to a different class in the classification schedule shall be retroactive to the date the appeal was filed.

### **Section 3. Appeal from Removal, Suspension, and Demotion.**

A regular employee may appeal a disciplinary action referred to in Rule 9 Section 3, to the Commission not later than ten (10) days after the effective date of such action. The filing and conduct of such appeals shall be subject to these Rules.

- (1) Appeal Must be in Writing. The appeal must be in writing and must contain a detailed statement specifying:
  - a. The action being appealed.
  - b. The reasons why the employee believes the disciplinary action was not for cause.
  - c. The corrective action requested.
- (2) Filing of Appeals. Filing of appeals must be in substantial accordance with these Rules. Any appeal not filed in conformance with these Rules is null and void, and of no effect.

### **Section 4. Appeals from Examinations.**

- (1) Any candidate for appointment or promotion to a position in the classified service who is aggrieved by the examination process may appeal to the Commission. The appeal must be in writing and must contain a detailed statement specifying:
  - a. That the candidate has filed with the Chief Examiner a written appeal of examination results within seven (7) days after the administration of that portion of the test being appealed.
  - b. The date of the Chief Examiner's decision after such appeal.
  - c. The reasons why the candidate believes that the decision by the Chief Examiner was contrary to the Rules promulgated for examinations, or that the decision was contrary to law, or for a political reason, the candidate was not treated in an equal and fair manner, or that the portion of the test being appealed was invalid.
  - d. The corrective action being requested.
- (2) Such appeal must be filed within fifteen (15) days from the date of the Chief Examiner's decision referred to in paragraph (1) (b).
- (3) The Commission may elect to halt or modify an examination or selection process if the Commission determines that the appeal raises a probability of questionable

validity or integrity of the selection process. The Commission may elect to retest any or portions of the selection process if it determines that any portion of the test is invalid or a substantial error has been made.

- (4) Requests by candidates for clarification or explanations regarding examination results or procedures shall not be considered appeals for the purposes of this section.
- (5) A rating in any part of an examination shall not be changed unless compliance with the foregoing conditions has been made and unless it is found by the Commission that a substantial error has been made. The Commission's decision with respect to a review or change shall be final and shall be entered in its minutes. A correction in the rating shall not affect a certification or appointment which may have already been made from the register. The Commission's decision with respect to any such appeal shall be final and conclusive.

**Section 5. Appeal from Removal from Employment List.** An eligible whose name has been removed from an employment list may appeal to the Commission for reconsideration. Such appeal must be filed in writing within fifteen (15) days after the date of removal. The Commission's decision with respect to any such appeal shall be final and conclusive.

**Section 6. Appeal from Examination Rejection.** Any applicant whose application for admission to an entrance or promotional examination has been rejected may appeal to the Commission for consideration of his qualifications. The Commission shall consider such appeal, if filed in writing within ten (10) days after the date on which notification was mailed to the applicant. The Commission's decision with respect to any such appeal shall be final and conclusive. Applicants may be admitted to an examination by the Commission pending consideration of a written appeal. Admission to an examination under such circumstances, however, shall not constitute the assurance of a passing grade or a successful appeal.

**Section 7. Appeal from Physical Abilities Testing or Psychological/Medical Examination.**

Where an applicant or employee of the City is reported to be physically or mentally unfit to perform work in the position to which appointment is to be made or in which the employee is employed, such applicant or employee shall have a period of five (5) working days from the date notification is made of such preliminary determination by an Appointing Authority, to appeal in writing to the Commission, the employee's or applicant's intention to challenge that finding as to physical or mental unfitness, or a determination if any, or lack of determination that reasonable accommodation is an alternative.

- (1) **Psychological Examination Appeals.** Applicants and those offered employment based on the condition that suitability and fitness be demonstrated may not appeal or challenge the opinion or recommendation of medical expert except upon a showing of bad faith, bias, or malfeasance of the examiner.

In the event an employee is deemed unfit or no longer suitable based on psychological or psychiatric exam, the employee may appeal to the Civil Service Commission on the basis of clear and material error which renders the opinion or recommendation demonstrably wrong. The Commission may accept or reject such appeals. If an appeal is allowed, the Commission shall order a second examination and select the examining psychologist or psychiatrist. This second opinion shall be paid for by the Commission. The Civil Service Commission will make a determination based on a consideration of both reports.

- (2) Medical Examination Appeals. In the event an applicant or employee disagrees with a medical report which is disqualifying, the applicant or employee may challenge it before the Civil Service Commission by providing contradictory medical evidence which establishes or tends to establish clear error or clear misinterpretation by the examiner. The Commission may accept or reject the second report, or require a third. If required, the Commission shall order a third examination by another physician chosen by the Commission. After request of a second or third, if required, evaluation, the Civil Service Commission shall make a final determination concerning suitability and fitness.

If an employee is finally determined to be physically or mentally unfit for service, such employee shall be demoted in accordance with these Rules or separated from City service. Such demotion or separation shall be within five (5) days from the date of final determination of the physical or mental unfitness of the employee, subject, however, to the provisions of Rule 12.

#### **Section 8. Hearings Officer.**

- (1) The Commission shall be empowered, at the Commission's discretion, to refer any issue to a Hearings Officer, who shall conduct the appeals process in accordance with these Rules.
- (2) The Commission may periodically appoint one or more permanent or temporary Hearings Officers who shall be qualified and familiar with the principles of a merit-based, civil service system. The individuals shall be practicing members of the Washington State Bar Association or arbitrators who are members of the American Arbitration Association.
- (3) The amount or method of compensation of the Hearing Officer shall be prescribed by the Commission.
- (4) All provisions of these Rules pertaining to the duties and authority of the Commission in the conduct of a hearing shall be applicable to the Hearings Officer.

**Section 9. Single Commissioner May Investigate or Conduct Hearing.** Any investigation or hearing provided by the Rules of the Commission may be made by the Commission or by any

Commissioners designated by the Commission for that purpose. 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.

#### **Section 10. Notice of Hearings.**

- (1) Time and Place of Hearings. The time and place of hearings will be set by the Commission Chairperson or the Commission's designated Hearings Officer and notice thereof served by the Commission upon the employee affected, and the employee's representative. Unless the time is extended under these Rules, the Commission shall conduct a hearing within 30 days following receipt of a notice of appeal.
- (2) Postponements. Any party who desires a postponement shall promptly, upon receipt of notice of the hearing, make written request of the Commission or the designated Hearings Officer for such postponement stating the reason. For reasonable cause shown, the Commission Chairperson or Hearings Officer may grant such postponement and may, at any time, order a postponement upon its own motion.

#### **Section 11. General Hearings Procedure.**

- (1) The Commission will open the hearing with a brief introduction of the parties and issues.
- (2) Hearings are public meetings open to the public, subject to the Washington Public Meetings Law.
- (3) Hearings will be conducted in an informal manner, and except as provided in these Rules, shall not be subject to the rules of evidence.
- (4) The parties or their representatives may make opening statements.
- (5) The parties or their representatives may present evidence in support of their respective positions. Cross examination of witnesses will be allowed opposing parties.
- (6) The Commission may question any witnesses as to the facts presented or involved, and the Commission may call witnesses on its own motion to assist it in arriving at a determination.
- (7) Attorneys, representatives or the parties may be allowed time to present oral arguments on the issues to the Commission. The Commission may require

written position papers to be submitted within a reasonable time after the hearing by the parties.

- (8) The Commission may impose time limits on questioning in the interest of orderly conduct of the hearing or fairness.

## **Section 12. Specific Procedures.**

### (1) Oaths and Subpoenas.

- a. In the course of any investigation or hearing, the Commission or designated Commissioner, or chief examiner, may administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents, and accounts pertaining to the investigation and also cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like dispositions in civil actions in the superior court; and the oaths administered and the subpoenas issued hereunder shall have the same force and effect as the oaths administered and subpoenas issued by a superior court judge in a judicial capacity; and the failure of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this act, and punishable as such.
- b. If either party desires more than 5 subpoenas, applications therefor shall be made to the Commission Chair by written motion for an order allowing the issuance of more than 5 subpoenas. The motion for additional subpoenas shall be supported by a statement of the party or the attorney seeking the subpoenas which shall set forth the names of such witnesses or documents and the facts expected to be proved by the additional subpoenas. The Commission Chair shall order as many additional subpoenas for as many witnesses or documents as appear from such statements or affidavits to be necessary and material to a fair, full and impartial hearing.
- c. Every person served with a subpoena by the Commission requiring attendance before the Commission shall be entitled to the same fees and mileage as are allowed by law to witnesses in civil proceedings pursuant to Washington law, except that no person shall be entitled to any fees or mileage who is employed by the City and is called as a witness during the employee's normal work hours. Such costs shall be paid by the party seeking issuance of the subpoena.

- (2) Conference During and Prior to Hearings. During or prior to any proceeding, the Commission may, at its discretion, call the parties together for a conference prior to the taking of testimony or may recess the hearing for such conferences to

resolve procedural matters. The results of such conferences shall be summarized on the record.

- (3) Stipulations of Facts and Issues. To expedite the proceedings, the parties shall be encouraged by the Commission in all cases to confer before the hearing for the purpose of stipulating to relevant facts and issues involved in the controversy. Such stipulations shall be binding upon the parties thereto and may be used as evidence in the case.
- (4) Continuances. If it appears on the motion of a party, or on the Commission's own motion, that further testimony or argument should be received, the Commission may in its discretion continue the hearing. The date of such continued hearing may be fixed at the time of hearing or by later written notice to the parties.
- (5) Burden of Proof. In a hearing on an appeal from a suspension, demotion or discharge, the Appointing Authority or designee shall have the burden of proof and the burden of going forward with the evidence. In appeals concerning classification actions and the examination process, the party filing the appeal shall have the burden of proof and the burden of going forward with the evidence.
- (6) Rules of Evidence. The rules of evidence at hearings shall be:
  - a. Evidence of a type commonly relied upon by a reasonable, prudent person in the conduct of their serious affairs shall be admissible. Relevant hearsay is admissible provided that (a) the hearsay statement is more probative than other evidence than the proponent could obtain through reasonable efforts, and (b) notice of the intent to offer such hearsay evidence, including full detail of the statement and the declarant's name and address, is given by the proponent to the other party in advance of the hearing to provide a fair opportunity for preparation to meet such evidence.
  - b. Irrelevant, immaterial or unduly repetitious evidence shall be excluded.
  - c. All offered evidence, not objected to, may be received by the Commission subject to the Commission's discretion to exclude irrelevant, immaterial or unduly repetitious matter.
  - d. Evidence objected to may be received by the Commission and in the discretion of the Commission, rulings on its admissibility or exclusion may be reserved until the time the order of the Commission is issued.
  - e. In considering the admissibility of evidence, the Commission may refer to, but is not bound by, the Washington Rules of Evidence.

- f. The Commission shall take judicial notice of Police Department, Fire Department, and City Rules, all past and current labor contracts and other matters for which judicial notice is appropriate.
- (7) Conduct of Hearing. A hearing before the Commission is intended solely for the purpose of receiving evidence either to substantiate or refute specific charges relative to the action which the Commission has been requested to examine. It shall not be an occasion for uttering irresponsible accusations, attacks upon the character or conduct of the employer or employee, or other derogatory matters having no bearing on the actions under consideration. All parties, representatives, counsel, and spectators shall conduct themselves in a respectful manner. Demonstrations of any kind will not be permitted. Failure to comply with this Rule shall be grounds for removal of the person from the hearing.

**Section 13. Disposition.**

- (1) Commission Decisions. Decisions of the Commission shall in all cases be based solely on the record made at the hearing and on legal authorities, including laws, relevant to the dispute. Decisions of the Commission or Hearings Officer shall be made in writing and contain Findings of Fact and Conclusions of Law and be in accordance with Rule 2, Section 14.
- (2) Recommended Order of the Hearings Officer. In matters referred by the Commission to a Hearings Officer, a Recommended Order shall be served on the parties and filed with the Commission within the time periods specified in subsection (1). Where applicable, the Recommended Order shall include Rulings on Motions and Evidentiary Matters, Findings of Fact and Conclusions of Law.
- (3) Commission Decisions on Recommended Orders. Commission review of Recommended Orders is limited to the hearing record and applicable law. The Commission may adopt a Recommended Order by voice vote. In all other cases the Commission shall issue a written final decision within the time periods specified in subsection (1), provided that in the event the Commission rejects or requires modification of the Recommended Order, the Commission shall base its final decision upon a de novo review of the hearing record.
- (4) Effect of Commission Decisions. Subject to judicial review pursuant to Washington State law, Commission decisions are final and binding on the parties.

**Section 14. Records.** The record of each Commission hearing shall include:

- (1) A statement identifying the dispute and papers related to the appeal;
- (2) All written materials offered to the Commission;

- (3) Evidence and testimony received and considered;
- (4) Matters officially noted;
- (5) Questions and offers of proof, objections and rulings thereon;
- (6) A statement of the final Commission decision including the hearing officer's recommended ruling, if any.
- (7) The recording of the hearing which shall be either a verbatim written record or mechanical recording.

**Section 15. Appeal from Commission Decision.** If order of removal, suspension, or demotion is concurred in by the Commission or a majority thereof, the employee may appeal therefrom to the Superior Court of Jefferson County, Washington. Upon filing of the appeal in the Superior Court, the employee shall serve the Commission, within 30 days after the entry of its order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and all papers on file in the office of the Commission affecting or relating to its order, be filed by the Commission with the Court. The Commission shall, within twenty days after the filing of the notice, make, certify, and file such transcript with the court. The Commission shall maintain the original of the certified record. Unless earlier obtained by the Commission, the Commission's transcript shall be paid for by the party appealing the decision. Petitioner seeking judicial review shall bear the expense of furnishing the record to the Superior Court. The Court shall thereupon proceed to hear and determine the appeal in a summary manner. Such hearing shall be confined to the determination of whether the order of removal, suspension, or demotion made by the Commission, was or was not made in good faith for cause, and no appeal shall be taken except upon such ground or grounds.

### **RULE 13 - INVESTIGATIONS**

**Section 1. Investigations.** The Commission shall make investigation upon its own motion or upon the petition of any citizen, duly verified and stating that irregularities or abuse exist in the administration of the Civil Service Act or setting forth in concise language in writing the necessity of such investigation.

**Section 2. Investigations -- Complaint -- Answer.** Whenever such complaint is received by the Commission, the Commission shall provide a copy of the petition or complaint document to the Appointing Authority or other person against whom the complaint is made. Within 20 days following service of the complaint on the Appointing Authority or any other person affected, the party against whom the complaint is directed may file with the Commission, in writing, an answer to the complaint or petition. The Commission may determine after receipt of the Appointing Authority's response that further investigation is necessary and may conduct an investigation of the complaint.

**Section 3. Hearing on Complaint.** If, in the determination of the Commission, after considering the results of the Appointing Authority's response or its further investigation, a hearing is necessary, the Commission may, within 30 days after the date of such determination, conduct a public hearing. At the hearing, the Commission shall review the results of its investigation, and both the petitioner and party against whom the petition is directed shall be entitled to appear and present evidence in their behalf. At such hearing, the Commission shall proceed to hearing and dispose of the matter in a summary manner, and their decision in the matter shall be conclusive.

Passed and adopted this seventh day of January, 2004.

PORT TOWNSEND CIVIL SERVICE COMMISSION

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

Approved as to form:

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John Watts, City Attorney