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## CHAPTER 1 GENERAL PROVISIONS

### 1.1 APPLICATION

These rules govern the administration of the Civil Service System of the City. They should be read in conjunction with the provisions of the City Charter and ordinances. They apply to all proceedings before the Commission. The positions and employees covered by the Civil Service System are specified in the City Charter and ordinances. They generally include:

- A. All positions and employees within the City's collective bargaining units, except: 1) those in the Supervisory and Professional unit, 2) Library and Museum positions and employees, and 3) positions of less than 20 hours per week or those not expected to continue more than nine consecutive months, and the employees filling those positions.
- B. Police Lieutenants

### 1.2 PURPOSE

The purpose of these Rules is to ensure that the Civil Service System is administered in accordance with the City Charter and ordinances, and that all proceedings before the Commission are conducted in an orderly, fair, and timely manner. They are intended to promote the principles of civil service:

1. That appointments, promotion, and retention in City service are based on fitness, competency and merit; and
2. To induce the most competent persons to enter and remain in City service enabling the City to perform its functions and render services in the most efficient, professional and economical manner.

### 1.3 SCOPE

The Commission provides general personnel policies, practices and rules governing Civil Service positions and employees, including:

1. Classification Plan;
2. Competitive Selection Processes;
3. Eligibility Lists;
4. Probation;
5. Disciplinary Processes;
6. Separation Procedures;
7. Investigation of Personnel Actions;
8. Complaint and Appeal Procedures;
9. Protection of Job Security and Tenure;
10. Prevention of Unlawful Discrimination; and
11. Other Functions Provided by Law.

### 1.4 CONFLICT

If these Rules conflict with the provisions of the City Charter, City ordinance, Washington State law, or a collective bargaining agreement under RCW chapter 41.56, the provisions of the applicable Charter, ordinance, law or agreement shall prevail, to the extent required by law.

**Note:** Employees covered by a collective bargaining agreement should consult that agreement to determine whether it provides procedures that must be used instead of the procedures established by these Rules, or includes rights and privileges in addition to, or in lieu of those provided in these Rules.

**1.5 CONSTRUCTION AND INTERPRETATION—DECLARATORY RULINGS**

These Rules shall be construed in accordance with applicable law and shall be applied liberally, equitably and practically. Any interested person may petition the Commission for a declaratory ruling regarding the validity, construction, interpretation, applicability or operation of these Rules. The Commission determines, in its sole discretion, whether to consider, grant, or decline to issue a declaratory ruling. Any declaratory ruling shall operate prospectively only. The Commission's discretion to consider or not consider a declaratory ruling is not subject to appeal or review.

**1.6 COMPUTATION OF TIME**

Except as otherwise provided, time periods specified as a number of days prescribed or allowed by these Rules include calendar days Monday through Friday except City holidays and do not include the day of the act or event that triggers the running of the time period. Time periods specified in months or years include calendar months and years.

**1.7 EXTENSIONS OF TIME**

Any period of time prescribed or allowed by these Rules, except for that period established for the filing of an appeal, may be extended by the Human Resources Director or the Chief Examiner, for no more than fourteen days, upon written request and a showing of good cause filed at the Human Resources Department prior to the expiration of the applicable time period. Extensions of time other than the time period established for the filing of an appeal may also be granted by the Commission at any time, in the Commission's discretion.

**1.8 NOTICE**

Notice required by these Rules shall be provided in a manner determined by the Human Resources Director, except as otherwise specified in the Rules. Notice shall be provided in a manner reasonably designed to provide prompt notification to the intended recipient of the matter in question. Types of notice may include, but are not limited to, U.S. Mail, personal service, intra-City mail, electronic mail, internet or website postings, physical posting, and publication. Unless otherwise specified, notice shall be deemed to be provided upon mailing, delivery, posting, publication, or other action taken by the person providing the notice.

**1.9 CHANGES**

These Rules are subject to change, as provided in Chapter 5. No employee, applicant or candidate shall have a property interest in, or as a result of, these Rules.

**1.10 REPEAL**

All previous Civil Service Rules are repealed.

**1.11 SEVERABILITY**

If any provision of these Rules, or the application of the Rules to any person or circumstance, is held invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

## **CHAPTER 2 ADMINISTRATION**

### **2.1 COMMISSION MEETINGS**

The Commission meets at least once each month as necessary to conduct the business of the Commission. The time and place of regular meetings are set by the Commission. Special meetings may be called by the Chair, the Human Resources Director, or by a majority of Commissioners. No business may be transacted at a special meeting except that specified in the Notice of that meeting. All meetings shall be open and public. The Commission may meet in executive session as permitted by the Open Public Meetings Act, RCW 42.30.

### **2.2 MEETING NOTICE**

The schedule of regular meetings shall be posted and distributed at the beginning of each year and when schedule changes are made. Notice of regular and special meetings shall be provided to Commissioners and to interested persons and organizations as required by the Open Public Meetings Act, no later than 24 hours prior to the meeting.

### **2.3 QUORUM**

Three members of the Commission constitute a quorum, except that at least four Commissioners shall be present during all formal hearings. All actions of the Commission shall be approved by a majority of the members present.

### **2.4 CHAIR**

At the first regular meeting of each year the Commission elects one of its members to serve as Chair for a term of one year. The Chair may be removed from the position by a majority of the Commissioners. In the event of a vacancy in the position of Chair the Commission shall elect a new Chair from among its members. The Commissioners present at a meeting may appoint a Commissioner to serve as Chair Pro-Tem in the temporary absence of the Chair. The Chair presides at all meetings and hearings of the Commission, signs all records on behalf of the Commission, and performs other duties as required by these Rules or as assigned by the Commission.

### **2.5 RULES OF ORDER**

Meetings are conducted in accordance with these Rules. Robert's Rules of Order guide the Commission in its conduct of business.

### **2.6 DISQUALIFICATION OF COMMISSIONER**

A Commissioner who has a conflict of interest regarding any proceeding before the Commission shall not participate in that proceeding. A Commissioner who has an interest, relationship or other connection to the subject matter of, or parties to, a quasi-judicial proceeding that should be disclosed to the parties to assure the appearance of fairness shall disclose such interest or connection prior to the beginning of a hearing. Any challenge to a Commissioner's participation in a proceeding shall be made by written affidavit or declaration at least 10 days prior to the beginning of a hearing, or as soon as the basis for the challenge is or should be known by the party making the challenge. Failure to raise a challenge in a timely manner is a waiver of the challenge. A challenged Commissioner may decline further participation in the proceeding. The Commission may, by majority vote, disqualify a challenged Commissioner from further participation in a proceeding if it finds that the Commissioner's participation would violate applicable law.

### **2.7 COMMISSIONER PRO TEM**

If disqualification of a Commissioner(s) results in a lack of a quorum to hear a matter the remaining Commissioners shall ask the Mayor to appoint a Commissioner Pro Tem for that matter only. Alternatively, if the parties agree, the remaining Commissioners may appoint a qualified person(s) to serve as Commissioner(s) Pro Tem.

**2.8 RECORDS**

Public records of the Commission are maintained at the offices of the Human Resources Department of the City. All filings and correspondence with the Commission shall be directed to the Commission at the Human Resources offices during regular business hours of the City. Records are available for viewing and copying in accordance with the Public Disclosure Act and City policies.

**2.9 RECORD OF PROCEEDINGS**

The Commission shall keep a record of its proceedings. A verbatim transcript of proceedings is not required unless specifically ordered. Costs of transcription and certification of all or part of a proceeding shall be paid in advance by the party requesting the transcript.

**2.10 REQUIRED REPORTS**

**A. APPLICANTS, ELIGIBLES, EMPLOYEE REPORTS**

Each applicant, eligible and employee shall promptly provide written notice to the Human Resources Department of any change in his or her name, address, and telephone number. In addition, each eligible shall provide prompt notice of any change regarding the eligible's availability or refusal to accept appointment or promotion and the reasons for the change. Failure to provide the required notice is cause for striking the name of an eligible from a register.

**B. DEPARTMENTAL REPORTS**

Each City Department shall immediately report to the Human Resources Department, in a form prescribed by the Director, every appointment, transfer, promotion, demotion, reduction, layoff, reinstatement, suspension, leave of absence, return to duty, assignment, change of title, change of compensation, separation from service (including the reasons for separation) , and every refusal or failure of a certified eligible to accept appointment.

## CHAPTER 3 COMMISSION STAFF

### 3.1 HUMAN RESOURCES DIRECTOR

The Human Resources Director:

- A. Manages Commission staff under the general direction of the Commission;
- B. Appoints a Chief Examiner, Examiners and Recording Secretary;
- C. Maintains the Classification Plan and records of the Commission;
- D. Maintains the budget for the Commission, approves accounts and the expenditure of funds;
- E. Delegates duties as appropriate, supervises and directs the Civil Service System work of the Human Resources Department;
- F. Reports to the Commission as required by these Rules;
- G. Adopts procedures and forms to implement these Rules and to administer functions delegated to Commission staff.
- H. Performs other functions necessary to the Civil Service System and as assigned by the Commission.

### 3.2 CHIEF EXAMINER

The Chief Examiner and Examiners:

- A. Formulate and conduct practical and competitive tests for positions within the System;
- B. Determine minimum qualifications and eligibility of applicants;
- C. Establish and maintain eligibility lists for classified positions;
- D. Manage efficient selection procedures consistent with open and competitive appointment;
- E. Prepare and maintain specifications for each class;
- F. Perform other functions necessary to the Civil Service System and as assigned by the Commission or the Human Resources Director.

### 3.3 REVIEW OF ACTIONS OF COMMISSION STAFF

The Commission may, on its own motion or upon appeal of a person adversely affected, review or modify any action of Commission staff. Procedures for the appeal of staff actions are set forth in Chapter 17. The Commission may grant a hearing or conduct an investigation regarding the staff action and may take such action as it deems appropriate consistent with these Rules.

**Note:** Appeals by employees may be limited or precluded by collective bargaining agreements.

## CHAPTER 4 DEFINITIONS

- 4.1 **ALLOCATION.** The placement of a position in a class based on duties, responsibilities and required qualifications of the position.
- 4.2 **APPLICANT.** A person who has filed an application to take a civil service examination.
- 4.3 **APPOINTING AUTHORITY.** The person(s) authorized to hire, promote or terminate City employees.
- 4.4 **APPOINTMENT–REGULAR.** The placement of a certified eligible in a civil service position.
- 4.5 **APPOINTMENT–TEMPORARY.** The placement of a person in a vacant position for a limited time period when there is no current eligible register for the position.
- 4.6 **APPOINTMENT–PROVISIONAL.** The placement of a person in a classified position that is not vacant during an authorized leave of absence of the employee holding a regular appointment to the position.
- 4.7 **CANDIDATE.** An applicant who has been admitted to a civil service examination.
- 4.8 **CERTIFIED ELIGIBLE LIST.** A list of names from an eligible register from which a Department Head may fill a vacancy.
- 4.9 **CHIEF EXAMINER.** Civil Service Commission Staff with the duties outlined in Rule 3.2.
- 4.10 **CITY.** The City of Bellingham.
- 4.11 **CLASS.** A position or designated group of positions with similar duties, responsibilities and required qualifications. Each class is described by a class specification.
- 4.12 **CLASS SERIES.** The arrangement in a promotional ladder of two or more classes that share the same or a similar line of work, according to the level of responsibility, difficulty and salary.
- 4.13 **CLASSIFICATION PLAN.** The overall structure of occupational groups, series and classes within the Civil Service System of the City.
- 4.14 **COMMISSION.** The Civil Service Commission.
- 4.15 **COMMISSIONER.** Any member of the Civil Service Commission.
- 4.16 **COUNCIL.** The City Council of the City of Bellingham.
- 4.17 **DATE OF ACTION.** The date an action is taken.
- 4.18 **DEMOTION.** Disciplinary process in which an employee is removed from a class, position or salary step and placed in a lower class, position or salary step.
- 4.19 **DEPARTMENT.** A department of the City subject to civil service as provided in the City Charter or ordinance.
- 4.20 **DEPARTMENT HEAD.** The Chief or Director of a Department, or the Chief's/Director's designee.

- 4.21 DISCHARGE.** Removal from civil service employment for cause.
- 4.22 ELIGIBLE.** A candidate whose name has been placed on an Eligible Register.
- 4.23 EMPLOYEE.** A person holding a position in City employment.
- A. **REGULAR EMPLOYEE OR REGULAR CIVIL SERVICE EMPLOYEE.** An employee appointed to a classified civil service position from a certified eligible list, or other method approved by the Commission, who has satisfactorily completed the probationary period.
  - B. **PROBATIONARY EMPLOYEE.** An employee appointed to a classified position from a certified eligible list, or other method approved by the Commission, who has not yet completed the probationary or trial period in the position.
  - C. **TEMPORARY EMPLOYEE.** An employee appointed for a limited time period to a classified position for which no register is available.
  - D. **PROVISIONAL EMPLOYEE.** An employee appointed for a limited time period to a classified position during the temporary absence of a regular or probationary employee.
  - E. **EXEMPT EMPLOYEE.** An employee holding a position of City employment that is not included in the Civil Service System.
- 4.24 EXAMINATION.** The process of testing the fitness and qualifications of applicants for a position or class.
- 4.25 EXAMINATION–PROMOTIONAL SERIES.** An examination conducted to establish a Register for a class or position that is higher than the entry level in a Promotional Series, or which is designated as Promotional in the Class Specification, and which is limited to employees in the next lower class.
- 4.26 EXAMINER.** Civil Service Commission staff with the duties outlined in Rule 3.2.
- 4.27 LAYOFF.** The interruption of service and pay of an employee because of lack of work or funds, the reduction, reallocation or elimination of positions or displacement by another employee.
- 4.28 LEAVE OF ABSENCE.** An authorized leave from work or from a civil service position, other than sick or vacation leave.
- 4.29 OFFICIAL RECRUITMENT SOURCE.** The recruitment source(s) designated by Human Resources as the official recruiting platform.
- 4.30 POSITION.** A job or combination of duties and responsibilities required of an employee in the service of the City.
- 4.31 PROBATION.** The period of time following appointment to a position during which an employee is required to demonstrate, by actual performance of the duties, fitness for the position. This trial period is part of the examination process and is a working test.
- 4.32 REALLOCATION.** The change in allocation of a position from one class in the Classification Plan to another.
- 4.33 REDUCTION.** The movement of an employee from a higher class to a lower class for non-disciplinary purposes.

**4.34 REGISTER.**

- A. **ELIGIBLE REGISTER.** A register or list of successful candidates for a class or position from which appointments may be made to fill vacancies in the class or position.
- B. **ENTRY REGISTER.** A list of successful candidates for a class or position that is not a higher class in a promotional series, and is not designated as Promotional in the class specification.
- C. **IN-HOUSE REGISTER.** A list of regular civil service employees who are successful candidates for a class or position that is not limited to current employees, in the order of final examination score.
- D. **PROMOTIONAL SERIES REGISTER.** A list of civil service employees who are successful candidates for a class or position in a higher class in a promotional series or which is designated as Promotional in the Class Specification.
- E. **REINSTATEMENT REGISTER.** A list of former employees who have been laid off, displaced, reduced, or removed for disability, who are entitled to reinstatement, in order of their retention credit, in accordance with Rule 9.6.
- F. **SUPPLEMENTAL REGISTER.** A list of former regular employees who have resigned or retired who are eligible for appointment to vacancies in their former class, in order of retention credit and in accordance with Rule 9.5.

**4.35 REINSTATEMENT.** Reappointment of an employee to a position in a class formerly held by the employee.

**4.36 RETENTION CREDIT.** The total of an employee's accumulated service credit earned through regular appointment in a class and higher classes in a promotional series of classes, or in a combination of classes or service approved by the Commission for calculation of retention credit. Retention credit is used to determine order of lay-off and displacement, and rank on a reinstatement or supplemental register.

**4.37 RETIREMENT.** The termination of employment for service or disability pursuant to applicable retirement laws.

**4.38 SERVICE CREDIT.** The accumulated time an employee serves, or for which an employee receives credit, in a particular class. Service credit is used to calculate retention credit, and may result in points added to promotional examination scores for candidates in a promotional series.

**4.39 SUSPENSION.** Temporary removal of an employee from employment for disciplinary purposes, or while charges are pending against the employee.

**4.40 TRANSFER.** Lateral movement of an employee to a different position in the same or a substantially similar class.

**4.41 TRIAL PERIOD.** A period of actual service in a position following transfer, demotion, reduction or reinstatement designated for the purpose of determining whether an employee is capable of satisfactorily performing the duties and responsibilities of the position.

**4.42 VACANCY.** A classified position that is funded but not currently held by a regular or probationary employee.

**4.43 VETERAN'S PREFERENCE.** Preferential treatment accorded to applicants and candidates with prior military service, as provided in applicable state or federal laws.

## **CHAPTER 5 RULE-MAKING**

### **5.1 AMENDMENT**

Any interested person may propose that the Commission adopt an addition or amendment to these Rules. The Commission may adopt an addition or amendment only after it has considered the proposed change during at least one meeting prior to the meeting at which it is adopted unless the Commission determines that an emergency exists requiring immediate adoption. Rules adopted by emergency declaration shall be reviewed by the Commission at the next regular meeting.

### **5.2 EFFECTIVE DATE**

All Rules shall become effective immediately upon adoption unless a later date is specified by the Commission.

### **5.3 FILING OF AMENDMENTS**

Each order of the Commission adopting Rules shall be filed with the Finance Director and maintained as a permanent public record. Notice of these Orders shall be posted in the Human Resources Department and distributed to all departments and employee unions for posting.

## **CHAPTER 6 CLASSIFICATION**

### **6.1 CLASSIFICATION PLAN**

Each Civil Service position created or authorized by the City Council shall be allocated to a class. The specification for each class shall state the type of work performed, the qualifications required, the duties and functions, and the supervisory relationships of the positions included within the class. The class title shall be descriptive of the type of work performed and shall be the official title of each position allocated to the class. Classification shall be city-wide. Similar positions in different departments of the City shall be included in the same class.

### **6.2 PROMOTIONAL SERIES**

Whenever feasible, classes in similar types of service with varying degrees of expertise, responsibility and/or supervision shall be arranged into a promotional series. Promotional series shall be city-wide except for uniformed classes in the Fire and Police Departments and in other circumstances where the Commission determines that special qualifications are required for positions in a particular department. Where appropriate promotional ladders to and from each class shall be stated in the class specifications.

### **6.3 ALLOCATION OF POSITIONS**

Each new civil service position created by the City Council shall be allocated to a class by the Human Resources Director, subject to appeal to the Commission. When an existing position is abolished the Human Resources Director shall remove the position from the Classification Plan.

### **6.4 AMENDMENT OF CLASSIFICATION PLAN**

The Commission, Human Resources Director, City Council, Mayor, Department Head, an employee in an affected position, or a union or association on behalf of an affected employee may propose the revision of an existing class or class specification, the deletion of an obsolete class or the reallocation of a position to an appropriate class.

### **6.5 COMMISSION ACTION-AMENDMENT/REALLOCATION**

The Human Resources Director shall investigate requests for amendment of the Classification Plan or reallocation of positions and provide a recommendation to the Commission. The Commission may conduct a public hearing regarding the proposal and shall take such action as it deems appropriate.

### **6.6 REALLOCATION SUBJECT TO CITY COUNCIL APPROVAL**

Reallocation of positions shall be subject to approval of the City Council and shall take effect as provided in the budget or appropriation ordinance or resolution.

### **6.7 MINOR AMENDMENTS-APPROVAL BY DIRECTOR**

The Human Resources Director may approve minor changes to Classification Specifications that do not modify the essential duties and principal qualifications of the class when necessary to correct errors or to ensure that an appropriate examination or selection process may be commenced in a timely manner. Notice of such changes shall be provided to incumbent employees and representatives and the changes shall be reported to the Commission at its next regular meeting.

## **EFFECT OF CLASSIFICATION CHANGES ON INCUMBENT**

- A. **MINOR CHANGES.** The change in the title of a class, or other minor modifications that do not change the duties or responsibilities of the class, shall not affect the status of the incumbent employee in the class.

**B. UPGRADING OF POSITION.**

1. When a position is reallocated to a higher class the Commission may authorize the appointment of the incumbent employee to the reallocated position without examination after consideration of relevant facts and circumstances. Otherwise, the incumbent must qualify for the new position through examination and appointment.
2. A regular incumbent employee shall be allowed to take the examination for the reallocated position regardless of the existence of a register for the higher class.
3. A regular employee who fails the examination or is not appointed to the higher class shall retain status in the lower class and may be appointed, transferred or voluntarily reduced to another position in accordance with these Rules.
4. The Commission may allow a probationary employee to qualify for the higher class in the same manner as a regular employee.
5. A probationary employee who is not allowed to take the examination or is not appointed to the higher class may be appointed or transferred to another position in accordance with these Rules, or enrolled on an appropriate register for the lower class.

**C. DOWNGRADING OF POSITION.**

1. When a position is reallocated to a lower class the incumbent regular employee shall retain status in the former class and, when practicable, shall be appointed to another position in that class or voluntarily reduced, in accordance with these Rules. Otherwise, the employee shall be granted full status in the lower class and placed on a reinstatement register for the higher class.
2. A probationary incumbent employee may be appointed or transferred to another position in the higher class.
3. A probationer who is not appointed or transferred within the higher class shall have probationary status in the lower class. The probationer shall receive full service credit for the probationary period served in the higher class. The probationer shall be enrolled on an appropriate register for the higher class with the same rank, if any, as the probationer had on the register from which he or she was appointed.

## CHAPTER 7 APPLICATIONS AND APPLICANTS

### 7.1 FILING APPLICATIONS

- A. Each applicant for a position in the civil service shall file an application on a form prescribed by the Examiner. Each application shall contain personal information the Examiner deems necessary to determine whether the applicant meets the minimum requirements for the position. The applicant shall certify that all statements in the application are accurate and complete.
- B. Each application shall be filed with the Examiner within the time period specified in the notice of examination. Applications postmarked, or marked sent, on or before the closing date and received by the Examiner within three business days following the closing date shall be considered timely. The time for filing applications may be extended by the Examiner by publication of a revised notice of examination as provided in 8.2C.
- C. All applications filed with the Examiner are records of the Commission and may not be returned to the applicant.

### 7.2 ADMISSION TO EXAMINATION

#### A. PROMOTIONAL SERIES EXAMINATIONS

- 1. Each applicant for a promotional series examination must meet the minimum qualifications for the position and any other special requirements specified in the notice of examination. Only regular employees in the next lower class in a promotional series, or as provided in the class specification, shall be admitted to a promotional series examination, provided that probationers may be admitted with the permission of the Commission.
- 2. If fewer than three qualified employees apply for the position the Examiner may, if requested by the appointing authority, open the examination to all qualified City employees regardless of class, or all qualified persons.\*
- 3. Eligibility requirements for promotional series examinations must be satisfied within thirty (30) days of the application closing date.

#### B. ALL OTHER EXAMINATIONS

For a position to be filled other than by promotional series examination each applicant who meets all of the minimum qualifications and any other special requirements specified in the notice of examination shall be admitted to the examination. Eligibility for examination is determined as of the application closing date.

#### C. CONDITIONAL ADMISSION

- 1. If an applicant's qualifications for a position cannot be clearly determined from the application the Examiner may admit the applicant to the examination on the condition that the applicant's eligibility for the position is demonstrated to the Examiner's satisfaction before the applicant is enrolled on a register of eligibles.
- 2. The Examiner may grant conditional admission to an examination to an applicant who lacks qualification if the applicant will be fully qualified prior to expiration of the register and the Examiner determines that conditional admission is in the best interests of the Civil Service.

**\*Note:** Employees covered by a collective bargaining agreement that specifies eligibility for an examination may be admitted to the examination as provided in the agreement.

### 7.3 ADMISSION TO EXAMINATION REFUSED

- A. The Examiner may refuse to admit an applicant to an examination for the following reasons:
  - 1. The applicant does not meet the requirements specified in Rule 7.2.

2. The applicant made a material false statement or has attempted fraud or deception in the application or any other civil service application or examination.

The Examiner shall provide written notice to an applicant who has been refused admission to an examination. The notice shall state the reason(s) for the refusal.

**B. PROTEST.** An applicant who has been refused admission to an examination may file a protest of the refusal within five (5) days of the notice of refusal. The Examiner shall consider such protests and may uphold or reverse the refusal, with or without conditions. The Examiner may admit the applicant to the examination pending resolution of the protest. An applicant may appeal the Examiner's decision to the Commission, as provided in Rule 3.3.

#### **7.4 AMENDMENT OF APPLICATION**

The Examiner may allow an applicant to file an amended application or to amend portions of the application during the application period specified in the notice of examination.

#### **7.5 APPLICATION FEE**

The Human Resources Director may set an application fee to recover all or a portion of the costs to purchase and/or administer an examination. The applicant shall pay the fee at the time the application is filed.

## CHAPTER 8 EXAMINATIONS

### 8.1 EXAMINER RESPONSIBILITIES

Subject to the general direction and review of the Commission the Examiner shall:

- A. Order examinations when appropriate and determine the type and methods of examination, relative weight to be given to each part of the examination, and, when appropriate, minimum passing scores;
- B. Appoint impartial experts, examiners and other persons to assist in conducting examinations;
- C. Consult with the appointing authority and other subject matter experts to develop valid, job-related measures of applicants' qualifications.
- D. Determine special requirements for admission to examination, rule on questions regarding eligibility of applicants, extensions of time and other matters that arise in the examination process;
- E. Submit reports to the Commission regarding examination process and results after each examination, together with all appeals from Examiner rulings regarding the examination.

### 8.2 NOTICE OF EXAMINATION

- A. **ENTRY EXAMINATIONS.** Public notice of each examination other than a promotional series examination or an open and continuous examination shall be published in the official recruitment source at least ten (10) days prior to the first part of the examination. Notice shall also be posted in the Human Resources Department and provided in other places and publications as directed by the Examiner.
- B. **PROMOTIONAL SERIES EXAMINATIONS.** Written notice of each promotional series examination shall be posted in the Human Resources Department and other appropriate departments, or provided to each employee eligible for admission to the examination, at least fifteen (15) days prior to the first part of the examination.
- C. **AMENDED NOTICE.** The notice of examination may be amended by the Examiner provided the amended notice is published, posted, and/or provided to eligible individuals as provided in this Rule.

### 8.3 OPEN AND CONTINUOUS EXAMINATIONS

- A. Open and continuous, or periodic, examinations may be ordered by the Examiner for any class or position. Public notice of open and continuous examinations shall state that the application period will remain open until further notice. Qualified applicants may take the examination at scheduled times announced in the public notice(s), provided that the Examiner may limit each applicant to one examination in a six month period. The open application period may be closed by order of the Examiner which shall be published in the Official Newspaper and posted at the Human Resources Department at least seven (7) days prior to the closing date.
- B. Qualified eligibles resulting from open and continuous examinations shall be entered on the eligible register for the class or position in the rank order determined by final scores.
- C. Except as otherwise provided in this Rule 8.3, open and continuous examinations are subject to all rules applicable to other examinations.

### 8.4 LIMITS ON NUMBER OF APPLICANTS

- A. **MULTI-PART EXAMINATIONS.** The Examiner may limit the number of qualified applicants to proceed to a later part or parts of a multi-part examination to those scoring highest on an earlier part or parts of the examination. If limits are set the

number of qualified applicants who will proceed to the later part shall be determined prior to the administration of the earlier part of the examination.

- B. **RANDOM SAMPLE.** The Examiner may limit the number of qualified applicants admitted to a non-promotional examination when it would be too costly or impractical to administer the examination to all of the qualified individuals expected to apply. If limits are imposed the number of qualified applicants to be admitted to the examination shall be stated in the Notice of Examination. Those qualified applicants who will be admitted to an examination shall be determined by selection of a random sample. Any qualified applicants who are regular Civil Service employees, and employees who are eligible for similar treatment due to provisions of a collective bargaining agreement, will be added to the applicant pool chosen by random sample. Random sample selection of applicants shall be used only in extraordinary circumstances when other methods of examining qualified applicants are prohibitively costly or impractical.
- C. **REMAINING APPLICANTS.** If examination of the randomly selected applicants fails to result in an eligible list of sufficient size to meet the City's needs, or the list is exhausted before it expires, another sample of the remaining qualified applicants shall be drawn and the examination process repeated.

## 8.5 CHARACTER AND CONTENT OF EXAMINATIONS

- A. Examinations shall be designed (1) to determine qualifications of candidates to perform the duties of the class or position that is the subject of the examination, and (2) when appropriate, to rank candidates in order of their relative fitness to perform these duties.
- B. Examinations shall be competitive by (1) testing a candidate's qualifications and abilities relative to other candidates, or (2) scoring candidates against a fixed standard.
- C. Examinations shall be impartial. No questions relating to a candidate's age, gender, sexual orientation, marital status, race, color, national origin, religion, political or union affiliation or activity, or physical or mental disability will be allowed unless necessary to determine a bona fide occupational qualification or reasonable accommodation and permitted by applicable law and City policy.
- D. Examinations shall be practical. They may include written tests, physical or performance tests, assessment centers, interviews, evaluations of personal qualifications, training and experience, or any other suitable evaluation of fitness generally accepted by Human Resources professionals, and any combination of these tests. Tests may evaluate education, experience, aptitude, knowledge, skill, physical or mental condition, personal characteristics, and other qualifications to determine the relative fitness of candidates to perform the duties of the class or position.

## 8.6 MINIMUM SCORES

Any minimum passing score for all or part of an examination shall be determined by the Examiner before the examination or part is administered. In a multi-part examination the failure of a candidate to achieve a minimum score on any part shall be considered failure of the entire examination. A failing candidate will not be admitted to the remaining parts of the examination.

## 8.7 SCORING

- A. **MULTI-PART EXAMINATION WEIGHTS.** Prior to administration of the examination the Examiner shall assign weights to each part of a multi-part examination representing the relative value of each part of the examination to the whole.

- B. **RATING TECHNIQUES.** Appropriate scientific techniques and procedures generally accepted by Human Resources professionals shall be utilized in rating tests and determining earned examination scores.
- C. **VETERAN'S PREFERENCE.** Veterans who have passed an examination may receive credit in accordance with the provisions of RCW 41.04. It is the candidate's responsibility to submit appropriate documentation of veteran status to receive veteran's preference points.
- D. **SERVICE CREDIT POINTS.** Successful candidates shall receive 1/24<sup>th</sup> of one point for each service credit month earned in the same promotional series of classes for which the examination is held, up to a maximum of ten points, added to their earned examination scores.
- E. **FINAL EXAMINATION SCORE.** Veteran's preference and service credit points are added to the successful candidate's earned examination score to determine the final examination score.

## **8.8 PROMOTIONAL SERIES EXAMINATIONS**

Examinations to fill vacancies in classifications in a promotional series, except for the entry-level class, shall be promotional. Vacancies in other classifications specified by the Commission as promotional in the classification specification shall be filled by promotional examination. The Chief Examiner may permit an examination subject to this Rule to be opened to all qualified applicants upon determining that training or knowledge not possessed by those eligible to apply for the promotion is essential to performance of the duties of the vacant class or position.

Promotional series examinations shall be conducted in accordance with this Chapter.

## **8.9 CANDIDATE RESPONSIBILITIES**

Candidates shall appear at each part of the examination on time and prepared to participate in the examination process. A candidate may not assist another candidate or receive assistance during the examination from any person or source except as authorized by the Examiner. A candidate shall follow all directions provided by the Examiner during the course of the examination. Failure of the candidate to comply with this section may result in disqualification of the candidate. Cheating on an examination may result in disqualification and disciplinary action if the candidate is an employee and removal if the candidate is a probationer. The Commission may cancel or nullify all or any part of an examination if it finds that the examination has been compromised by a candidate's misconduct.

## **8.10 EXAMINATION PROTEST**

- A. A candidate may challenge the scope, content or method of any examination or test by filing a written protest, in a form prescribed by the Examiner, within the later of five (5) days following the date of the challenged examination or test or the time limit specified on the examination instruction sheet.
- B. A candidate may challenge the scoring of an examination or test, failure of the candidate on any part of an examination, or clerical error in examination results, by filing a written protest, in a form prescribed by the Examiner, within five (5) days after notice of the challenged result was provided to the candidate.
- C. The Examiner shall consider all timely filed protests and make appropriate corrections if an error is demonstrated. Such corrections shall be made to the examination results of all candidates affected by the error.

**8.11 CORRECTION OF CLERICAL ERRORS**

The Examiner shall correct clerical errors in the results of an examination or relative rankings when discovered during the life of the eligible register. Such corrections shall not affect any appointment made from the register prior to the correction.

**8.12 EXAMINATION RESULTS**

**A. REPORT TO COMMISSION**

Following completion of an examination the Examiner shall provide a report to the Commission including the position description or class specification, examination notice, testing procedures, examination results, timely filed protests, and resolution of the protests.

**B. CONFIRMATION OF RESULTS**

If no appeals relating to the examination are filed the examination results shall be considered confirmed on the date specified in the report to the Commission. When confirmed, the results shall be final and conclusive, subject to correction of clerical and computational errors, resolution of pending protests, and further examination of eligibles authorized in Rule 8.14.

**C. APPEALS**

Any appeals resulting from the Examiner's denial of a protest shall be considered by the Commission as provided in Rule 3.3. After hearing the appeal the Commission may confirm or modify the examination results, strike questions or other component parts of tests, nullify any of the tests, order that all or any part of the examination be retaken or rescored, order a new examination, or take other action the Commission deems appropriate.

**8.13 NOTICE TO CANDIDATES**

The Examiner shall provide notice to candidates of examination results, including whether the candidate passed or failed all or part of the examination, the earned examination score and the final examination score and rank.

**8.14 ADDITIONAL TESTS**

Additional testing, including background investigations, medical, physical and psychological examinations, and other testing designed to determine relative qualifications for the position, may be administered or ordered by the Human Resources Department or the appointing authority prior to selection. Failure to pass these additional tests may result in the removal of a candidate's name from an eligible register.

**8.15 ANSWER KEYS**

Answer keys shall not be provided to any person other than Commissioners, Examiners and persons authorized by the Examiner to score examinations.

**8.16 MEDICAL EXAMINATIONS**

**A. APPOINTEES**

Medical examinations are required of all original appointees to uniformed entry positions in the Fire and Police Departments. The Human Resources Director or the appointing authority may require original appointees to other entry positions or reinstated appointees to submit to medical examination. A required medical examination shall be satisfactorily completed prior to hire or reinstatement, provided that the appointing authority may permit a trial period for a reinstated appointee prior to completion of the medical examination.

**B. EMPLOYEES**

The Commission may, for good cause, order an employee to submit to a medical examination by a physician it designates to determine the physical and mental fitness

of the employee to perform his or her duties. The employee shall be given at least five days notice and an opportunity to be heard by the Commission prior to issuance of an order for a medical examination.

A request for the medical examination of an employee may be initiated by a Department Head or designee, the Human Resources Department, the Commission, or, after exhaustion of departmental remedies, an employee who has a good faith belief that his or her safety or welfare is in jeopardy due to the physical or mental incompetence of another employee.

## **CHAPTER 9 REGISTERS AND ELIGIBILITY**

### **9.1 ELIGIBLE REGISTERS**

After each examination the names of successful candidates shall be entered on an eligible register in rank order according to final examination scores. Registers with fewer than four names may be unranked at the discretion of the Chief Examiner.

### **9.2 PREFERENCE IN CASE OF TIE**

If two or more candidates have the same final examination score preference in rank shall be given to the candidate with the higher earned examination score. Candidates with the same final examination score and earned examination score shall receive the same rank.

### **9.3 CONSOLIDATION OF REGISTERS**

Two or more registers for a class or position may be combined only if the eligibles on each of the registers completed an identical examination. An eligible's rank on the consolidated register is determined by the eligible's most recent final examination score. Consolidation of the registers does not extend the eligibility of any candidate.

### **9.4 CONDITIONAL ELIGIBILITY**

The Examiner may grant conditional eligibility to a candidate who lacks qualification if the candidate will be fully qualified prior to expiration of the register and the Examiner determines that conditional eligibility is in the best interests of the Civil Service. A candidate granted conditional eligibility shall not be certified for any position until he or she has demonstrated to the satisfaction of the Examiner that the candidate has attained the required qualifications. A temporary or provisional appointment of a conditional eligible may be made with approval of the Human Resources Director.

### **9.5 SUPPLEMENTAL REGISTERS**

A regular employee who resigns or retires may request placement on a supplemental register for the class or position last held by the employee. The request must be made within one year of the employee's last day of employment, provided that the Human Resources Director may extend the time for an additional year if the extension would benefit the City. If the former employee's Department Head approves the request the former employee shall be placed on a supplemental register for a period of one year. Rank on a supplemental register with more than one candidate is determined by retention credit. The top three eligibles on a supplemental register are referred to the appointing authority along with other registers.

### **9.6 REINSTATEMENT REGISTERS**

A reinstatement register shall be established for each class containing the names of employees in the following order:

- (1) Regular employees who have been laid off or displaced and, upon request of the employee's Department Head, probationary employees who have been laid off;
- (2) Regular employees who are displaced as a result of disability;
- (3) Former regular employees on disability retirement from the class or a higher class;
- (4) Exempt employees not on a leave of absence from the civil service who are reduced or displaced from exempt positions whose requests for placement on the reinstatement register are granted by the Commission. Such employees must be qualified for the class by experience, training, record of City employment and other relevant factors. The Commission must determine that placement of the exempt employee on the register is in the best interests of the civil service. No claim or appeal shall result from the denial of a request by an exempt employee without civil service status for placement on the reinstatement register.

Within each of these categories rank shall be determined by retention credit. Except as otherwise provided in these Rules an eligible shall remain on a reinstatement register for three (3) years, provided that an eligible who refuses to accept appointment from a reinstatement register shall be removed from the register. The Human Resources Director may grant an extension of eligibility up to one additional year.

**9.7 DURATION OF ENTRY REGISTERS**

Entry registers remain in effect for six (6) months unless a different time period is specified at the time the register is established.

**9.8 DURATION OF PROMOTIONAL REGISTERS**

Promotional registers remain in effect for two (2) years unless a different time period is specified at the time the register is established.

**9.9 CANCELLATION OF REGISTER**

An entry or promotional register may be cancelled:

- (1) By the Human Resources Director when it contains two (2) or fewer eligibles; or
- (2) By the Commission, for good cause, when it contains three (3) or more eligibles.

Notice of cancellation shall be provided to the remaining eligibles.

**9.10 AVAILABILITY OF ELIGIBLES**

Unless excused by the Examiner an eligible may be removed from a register if he or she is unavailable for appointment. Eligibles may be excused from availability as follows:

- (1) An eligible in military service shall be granted a deferment of certification for a period not to exceed ninety (90) calendar days (or a longer time period if required by State or Federal law) upon request of the eligible.
- (2) An eligible who is on an authorized leave of absence from City employment may be granted a deferment of certification during the leave period, or he or she may be certified for appointment if the leave is expected to end within a reasonable time period, as determined by the Examiner.
- (3) The Examiner may grant deferral of certification if requested by an eligible who shows good cause for the deferral. The deferral may be granted for a specific time period or until certain conditions have been met.

**9.11 CANCELLATION OF ELIGIBILITY**

An eligible may be removed from a register for the following reasons:

- (1) Failure to pass a required examination or test.
- (2) Material physical or mental disability that prevents the eligible from performing the duties of the class or position with reasonable accommodation.
- (3) Fraudulent conduct.
- (4) False statements in connection with an application, examination or appointment.
- (5) Previous unsatisfactory work record with the City.
- (6) Dismissal from any position for any cause that would be cause for dismissal from City service.
- (7) For promotional registers: Separation from service.
- (8) Non-selection after having been certified three (3) times for appointment in the same class and department if removal is requested by the Department Head, except that the candidate may remain eligible for positions in other departments.
- (9) Failure to respond when required within five (5) days of a call or other contact by the Examiner or appointing authority.
- (10) Refusal to accept an appointment.

(11) Other material reasons, or lack of fitness for City employment, as determined by the Commission.

**9.12 NOTICE OF CANCELLATION OF ELIGIBILITY**

Prior to striking an eligible's name from a register the Examiner shall give the eligible written notice specifying the cause for removal. The eligible may file a written protest of the removal within five (5) days of the date of the notice. The Examiner shall consider all timely filed protests and take appropriate action. No notice is required if the eligible requests, or consents to removal from a register.

## CHAPTER 10 CERTIFICATION AND APPOINTMENT

### 10.1 GENERAL

Vacancies in the civil service shall be filled by reinstatement, promotional appointment, assignment, original appointment, transfer, reduction, or demotion, provided that, in the absence of an appropriate register the Human Resources Director may authorize a temporary or provisional appointment.

### 10.2 CERTIFICATION

When a vacancy is to be filled by regular appointment the Examiner shall provide the appointing authority with a certified eligible list, if one is available, from registers in the following order:

1. Reinstatement;
2. Promotional;
3. In-House, as part of Entry;
4. Entry, including Supplemental \*

**\*Note:** Collective Bargaining Agreements may provide for certification of a list of eligible bargaining unit members, along with Civil Service eligibles, for positions within the unit.

### 10.3 NUMBER OF CERTIFIED ELIGIBLES

#### A. REINSTATEMENT REGISTER

If a vacancy is to be filled from a Reinstatement Register the certified eligible list shall contain the name of the one highest ranking available eligible on the register unless the Commission determines, after providing any affected eligibles an opportunity for a hearing, that the best interests of the Civil Service require reinstatement out of the regular order.

#### B. ENTRY REGISTER

If there are no available eligibles on a reinstatement register for an entry level vacancy a certified eligible list containing the names of the highest ranking fifteen (15) eligibles, or the top 25% of the entry register, whichever number is greater, shall be referred to the appointing authority, along with the three (3) highest ranking eligibles on a supplemental register for the class or position. \*

#### C. PROMOTIONAL REGISTER

If there are no available eligibles on a reinstatement register for a vacancy in a promotional position within a promotional series a certified eligible list containing the names of the three (3) highest ranking eligibles on a promotional register for the class or position shall be referred to the appointing authority.

#### D. MULTIPLE VACANCIES

If two or more vacancies are to be filled from a register other than a reinstatement register the name of one additional eligible, in rank order, shall be added to the certified eligible list for each additional position to be filled.

#### E. ADDITIONAL NAMES

If the appointing authority demonstrates that a certified eligible is not available, or does not respond, the next ranking eligible shall be added to the certified eligible list.

#### F. SPECIAL SKILLS

When an appointing authority demonstrates that special experience, training or skills are necessary for satisfactory performance in a particular position the Commission may authorize certification of an eligible list containing only the names of the highest ranking eligibles who possess the special qualifications.

**\*Note:** Collective Bargaining Agreements may provide for the certification of a list of eligible bargaining unit members along with Civil Service eligibles for vacancies within the bargaining unit.

**10.4 PAPERS PROVIDED TO DEPARTMENT**

The application and examination papers of a certified eligible shall be available for inspection by the appointing authority.

**10.5 SELECTION PROCESS**

The appointing authority may conduct interviews and other testing procedures for all or any of the certified eligibles.

**10.6 DURATION OF CERTIFICATION**

A certified eligible list shall remain in effect for thirty (30) days after it is issued, provided that the Examiner may extend the certification for additional thirty (30) day periods upon request of the appointing authority. Expiration of the register shall not affect the validity of the certified eligible list.

**10.7 REPORT OF APPOINTMENT**

The appointing authority shall report all appointments to the Human Resources Director. The report shall contain the name of the person appointed, the effective date of appointment, the position, salary and all other required information.

**10.8 TEMPORARY APPOINTMENT**

The appointing authority may make a temporary appointment when no eligible register is available. A temporary appointment may be made for up to ninety (90) calendar days and may be extended with approval of the Commission for good cause. Unless approved by the Commission a temporary appointment may not last for more than thirty (30) calendar days after the appointing authority is notified that an eligible register for the class or position is available.

Temporary appointments to non-promotional positions may be made from:

- (1) Regular or probationary employees;
- (2) Available eligibles for similar classes or positions; or
- (3) Other persons meeting the minimum qualifications for the class or position.

Temporary appointments to promotional positions in promotional series must be made from an eligible register for the class or from among regular employees in the next lower class.

**10.9 PROVISIONAL APPOINTMENT**

The Human Resources Director may authorize a provisional appointment for a period not to exceed sixty (60) calendar days to a position held by an employee who is temporarily absent. The qualifications for a provisional appointee are the same as for a temporary appointee, as specified in Rule 10.8.

**10.10 TRANSFER**

A regular employee may be transferred to a vacant position in the same or a substantially similar class in a different department if the employee meets all necessary qualifications for the position. The employee must request or consent to the transfer and the Human Resources Director and Director of the receiving department must approve the transfer.

**10.11 VOLUNTARY REDUCTION**

**A. AUTHORIZED**

An employee may be voluntarily reduced to a vacant position in:

- (1) a lower class in the employee's class series;
- (2) a lower class that is substantially similar to any lower class in the employee's class series;

- (3) a lower class in which the employee previously held a regular appointment; or
- (4) for employees returning from a disability: any permissible lower class for which the employee is qualified.

**B. PROCEDURE**

A request for voluntary reduction must state the reason for the request and demonstrate that the employee meets the qualifications for the lower class. The reduction must be approved by the Human Resources Director and the receiving Department Head.

**C. TRIAL PERIOD**

A trial period may be required at the discretion of the Human Resources Director for the purpose of determining that the reduced employee is capable of performing the duties of the position or class. The reduction shall be complete upon the satisfactory completion of the trial period, or, if no trial period is required, the effective date of the reduction.

**D. RETURN TO HIGHER CLASS**

An employee who is voluntarily reduced may return to the higher class only by examination and regular appointment, or, in the event of recovery from a disability, by appointment from a reinstatement register.

**10.12 REDUCTION IN LIEU OF LAYOFF**

**A. IN LIEU OF LAYOFF**

An employee may be reduced to a lower class in lieu of layoff, as provided in Rule 13.6.

**B. TRIAL PERIOD**

The Human Resources Director, or the Commission, may impose a reasonable trial period for the sole purpose of determining whether the employee is capable of satisfactorily performing the duties of the position or class. The trial period may be extended, shortened, or modified by the Commission for good cause.

**10.13 NON-COMPETITIVE PROMOTION**

An employee who meets the requirements for a non-competitive promotion may be promoted without examination. The requirements for such promotions, such as time in grade, State certification, and acquisition of certain skills, are specified in the classification specification. Non-competitive promotions are approved by the appointing authority and Chief Examiner.

## CHAPTER 11 PROBATION

### 11.1 PROBATIONARY PERIOD

- A. General.** Each employee appointed from an eligible register to a civil service position shall serve a period of probation before the appointment is deemed complete. A probationary period begins on the effective date of appointment.
- B. Length of Probationary Period**
- 1. Original Appointments.** Each original appointee shall be probationary for a minimum of twelve months, unless a different time period is stated in the class specification.
  - 2. Promotional Appointments.** Each promotional appointee shall be probationary for a period of six months unless a different time period is stated in the class specification or specified by the Commission at the time of appointment. Any appointment of a regular employee who has previously served a full probationary period shall be considered a promotional appointment.
  - 3. Extension of Probationary Period.** A probationary period may be extended for up to 3 additional months with approval of the Commission. The Commission may extend the probationary period for a longer period of time with the concurrence of the department and the probationer. A probationary period may be extended only upon a showing of good cause.
  - 4. Interruption of Probationary Period.** Interruption of service during a probationary period, such as any leave of absence without pay, suspension or layoff, or other significant period of absence shall not be counted as part of the probationary period. Minor absences due to vacations, annual military leave and illness or injury will not interrupt the probationary period unless the Commission determines that, cumulatively, they interfere with the department's ability to adequately observe the probationer's performance. If a probationer is granted a temporary leave to serve in a temporary or provisional appointment in a different class the Commission and Department may allow service in that temporary or provisional appointment to apply to the probationary period.
- C. End of Probationary Period.** The Department Head shall file a written report with the Human Resources Department not less than ten days prior to the expiration of the probationary period of each appointee indicating whether the appointment will be made absolute. If no final report is filed prior to the expiration of the probationary period satisfactory performance of the probationer shall be presumed and the appointment shall become absolute.

**Note:** Collective Bargaining Agreements may specify different requirements for probationary periods.

### 11.2 TRIAL PERIOD

At the discretion of the Human Resources Director an employee who is reinstated, transferred, reduced or demoted may be required to serve a trial period before the appointment becomes absolute. Except as otherwise provided in Rules 10.11, 10.12, and 16.4 an employee serving a trial period shall be considered probationary, and subject to the Rules relating to probation. The duration of a trial period shall be determined by the Human Resources Director and shall be reasonably designed to determine whether the employee is capable of performing the duties of the position. A trial period shall not exceed six months without approval of the Commission. The trial period may be extended, shortened, or modified by the Commission for good cause.

### 11.3 REMOVAL OF PROBATIONER

- A. Grounds.** The appointing authority may remove any probationer, stating the reasons for the removal in writing. Reasons for removal need not constitute cause.
- B. Procedure.** The appointing authority shall file the notice of removal of the probationer with the Human Resources Department, on a form prescribed by the

Human Resources Director, prior to the end of the probationary period. Notice of the removal shall be mailed to or personally served on the probationer with proof of service filed with the Human Resources Department.

- C. **Rights of Promotional Probationer Upon Removal.** A removed promotional probationer who is not discharged for cause retains all civil service rights to the position held immediately prior to the promotional appointment.
- D. **Demotion/Transfer in Lieu of Discharge.** A probationer who is unable to satisfactorily perform the duties of the appointed position may be reduced to a position in a lower class, or allowed eligibility for another position in the same class, if deemed qualified for that position by the appointing authority, subject to approval of the Commission. A probationer reduced or transferred to a class in which the probationer has not held regular standing shall begin a new period of probation.

#### 11.4 PROTESTS

A probationer may protest removal or demotion by filing a written statement of the action protested and the grounds for protest with the Human Resources Department within ten days of the notice of removal or demotion. The Human Resources Director shall consider and rule on timely-filed protests. The decision of the Human Resources Director may be appealed to the Commission pursuant to Rule 3.3. Issues that may be appealed to the Commission are limited to the probationary status of the employee, whether procedures were properly followed and whether a discharge was contrary to law.

## CHAPTER 12 SERVICE CREDIT

### 12.1 COMPUTATION OF SERVICE CREDIT

- A. **Service Credit Month.** An employee earns one service credit month for each calendar month in which the employee is paid for at least 120 hours or six (6) 24-hour shifts of covered service, including actual work time, vacation, sick leave, compensatory time off, and other paid leave. A part-time employee earns one service credit month for each 120 hours of paid time, but not more than one service credit month per calendar month.
- B. **Fraction of Month.** No service credit is earned for any fraction of a calendar month in which the employee is paid for less than the number of hours or 24-hour shifts specified in subsection A, or for a part-time employee, for any fraction of the number of hours of paid time required in subsection A.
- C. **Determined for each Class.** Service credit is computed for time in each class held by an employee whether the service in the class has been continuous or interrupted. If an employee moves from one class to another during a calendar month, or for a part-time employee, during the course of a 120 hour period, the employee earns service credit in the class in which the employee serves the greatest number of working shifts or hours.

### 12.2 SERVICE COVERED

- A. **Regular Employees.** An employee who has satisfactorily completed a probationary period for a class receives service credit for each service credit month served in the class.
- B. **Probationary Employees.** Upon satisfactory completion of a probationary period in a class the employee receives service credit in the class for each service credit month served during the probationary period. If the probationer fails to satisfactorily complete probation and is returned to a former class service credit months served during the probationary period are credited to the former class.
- C. **Temporary or Provisional Appointees.** If an employee receives a regular appointment to a class after serving in a temporary or provisional appointment to the same class the employee receives service credit in that class for each consecutive service credit month served in the temporary or provisional appointment immediately preceding regular appointment. A regular employee who serves in a temporary or provisional appointment, or in an exempt position, who returns to his or her regular class receives service credit in the regular class for each service credit month served in the temporary, provisional or exempt appointment after the regular appointment.\*
- D. **Leave of Absence with Pay.** A regular employee receives service credit in the employee's regular class for time that the employee is on a leave of absence with pay.
- E. **Leave to Take Uniformed City Office.** A regular uniformed Police or Fire employee on a leave of absence to take an exempt uniformed position in the same department receives service credit in the employee's regular class for each service credit month that the employee is on a leave of absence to take the uniformed City office.
- F. **Leaves Without Pay or to Take Other City or Public Office.** No service credit is earned for time that an employee is on a leave of absence without pay or a leave to take City or other public office not covered by subsection E. above, provided that applicable collective bargaining agreements may provide for service credit during leave periods and employees on a leave to take City office at the effective date of this Rule (March 14, 2012) shall retain service credit earned prior to this date during the leave.
- G. **Suspension.** No service credit is earned for time that an employee is on a suspension, unless the suspension is reversed or rescinded.

\*Note: A Collective Bargaining Agreement may restrict service credit earned outside the bargaining unit.

### 12.3 CHANGE IN CLASS

- A. **Generally.** Service credit earned by an employee in a class is generally not carried over to another class after promotion, reinstatement, transfer, demotion or voluntary reduction, but is permanently retained in the class in which it was earned, except as otherwise provided in this Chapter.
- B. **Abolition of Class.** If a class is abolished the Commission may order that service credit earned in that class be credited to another class which is substantially similar to the abolished class.
- C. **Reallocation.** If a position is reallocated to a substantially similar class service credit earned in the former class is credited to the new class. If a position is reallocated to a different class that is not substantially similar to the former class service credit earned in the former class is retained in the former class and not credited to the new class.

### 12.4 TRIAL PERIODS

- A. **Transfer.** Upon satisfactory completion of any required trial period following a transfer to a class the employee receives service credit in that class for time served during the trial period. If the employee does not satisfactorily complete the trial period such time served is credited to the employee's former class.
- B. **Demotion or Reduction.** Upon satisfactory completion of any required trial period following demotion or reduction to a class the employee receives service credit in that class for the time served during the trial period. If the employee does not satisfactorily complete the trial period and is further demoted or reduced the time served during the trial period is credited to the lower class to which the employee is ultimately appointed. If the employee is laid off after failure to complete a trial period the time served during the trial period is credited to the employee's former class.

### 12.5 LAYOFF

No service credit is earned during the period an employee is laid off. All service credit held by the employee immediately prior to the effective date of the layoff is retained by the employee during the period of time the employee remains on a reinstatement register and the period of re-employment if appointed from a reinstatement register. Retained service credit is forfeited if the laid-off employee fails to accept appointment from a reinstatement register or eligibility for the reinstatement register expires in accordance with Rule 9.6.

### 12.6 DISCIPLINARY PENALTY

The Commission may order, in its discretion, the forfeiture of all or a portion of service credit earned by an employee up to the date of the order, in lieu of, or in addition to dismissal, demotion or other disciplinary penalty.

### 12.7 SEPARATION FROM SERVICE

Except as otherwise provided in these Rules, service credit is forfeited at the time of separation from service with the City and is not reinstated upon reemployment.

### 12.8 DETERMINATION OF CREDIT

- A. **Payroll and Personnel Records Used.**  
Service credit is determined through review of available payroll and personnel records. If payroll and personnel records are not available or are inconclusive for any particular period of employment it is rebuttably presumed that a regular employee earned full service credit in the employee's class for each calendar month during that period of time.
- B. **Request for Determination**  
Any regular employee, a union or labor association on behalf of an employee, or the Director of an employee's department may request a determination of the employee's service credit as of a specified date, in a specified class. The request shall be made

in writing and filed with the Human Resources Department. The Human Resources Department shall respond, in writing, to such request within ten (10) business days.

## **CHAPTER 13 LAYOFF**

### **13.1 GENERAL**

No regular employee or promotional probationer may be laid off, displaced, or transferred or reduced in lieu of layoff, except for cause exercised in good faith. Notice and an opportunity for a hearing shall be provided to the employee prior to layoff or other action in lieu of layoff.

### **13.2 CAUSE FOR LAYOFF**

A regular employee or promotional probationer may be laid off, or transferred or reduced in lieu of layoff, for the following reasons:

- A. Abolition of a position by the City Council, either expressly or by failure to appropriate funds, or resulting from the lawful revision of the Classification Plan.
- B. Reallocation of a position to a higher or lower class and the failure, refusal or inability of the incumbent to qualify for or be placed in the new class or a different position in the existing class.
- C. Reduction in the number of employees in a class or department by the City Council or a Department Head due to lack of funds or lack or curtailment of work.
- D. The return of an employee from a leave of absence, or reinstatement of a former employee from disability retirement, resulting in displacement of an employee.
- E. Restoration of a promotional probationer to a former class or other displacement authorized by these Rules when there is no vacancy in the class.
- F. Any other cause under law or these Rules necessitating displacement or a reduction in the number of employees.

### **13.3 GOOD FAITH**

In any hearing or investigation regarding a layoff or transfer or reduction in lieu of layoff of a regular employee or promotional probationer the City or Department Head must establish that the layoff or transfer or reduction in lieu of layoff is in good faith and for cause allowed by these Rules.

### **13.4 ORDER OF LAYOFF**

Employees within a class shall be laid off in the following order:

- A. Employees without a Civil Service appointment temporarily occupying a position within the class;
- B. Temporary or Provisional employees;
- C. Probationary employees in the order of their length of actual probationary service, the employee with the least service is laid off first;
- D. Regular employees in the order of retention credit at the time of the layoff. The employee with the least retention credit is laid off first. Retention credit is defined in Rule 4.36.

### **13.5 LAYOFF OUT OF ORDER**

The Commission may authorize layoff out of the order specified in Rule 13.4 if the Department Head establishes to the satisfaction of the Commission that it is necessary to the efficient and effective operation of the Civil Service. All affected employees shall be provided an opportunity for a hearing in accordance with these Rules.

### **13.6 REDUCTION OR TRANSFER IN LIEU OF LAYOFF**

The following opportunities for reduction or transfer are available to an employee in lieu of layoff, provided the employee files a request for reduction or transfer with the Human

Resources Department within ten (10) days following notice of layoff:

- A. A regular employee or promotional probationer may accept reduction to the next lower class in a series of classes;
- B. A promotional probationer may accept restoration to the probationer's former class;
- C. A regular employee or promotional probationer may transfer to a vacant position in another class for which the employee qualifies, subject to approval of the vacant position's Department Head and the Human Resources Director.

**13.7 DISPLACEMENT**

If there is no vacancy in a class to which an employee is reduced or restored in lieu of layoff the Human Resources Director shall authorize the displacement of the probationer or regular employee in the class with the least retention credit, provided the retention credit of the employee who is reduced or restored exceeds that of the displaced employee. If the employee who is reduced or restored in lieu of layoff fails to satisfactorily complete any required trial period the displaced employee shall be restored to the class.

**13.8 NOTICE AND HEARING**

Each employee affected by a proposed layoff shall be provided with notice of the proposal and the following information:

- A. The retention credit of the employee in every applicable class;
- B. Displacement options in each of the applicable classes;
- C. The employee's rights relating to layoff provided by these Rules;
- D. The procedure for requesting a hearing before the Commission, or the date of the hearing if one is scheduled by the Human Resources Director or Department Head.

**13.9 REINSTATEMENT**

Reinstatement of a laid-off employee through appointment from a reinstatement register is governed by Rules 9.6, 10.2 and 10.3.

## CHAPTER 14 LEAVES OF ABSENCE

### 14.1 GENERAL POLICY

Leaves of absence with or without pay may be granted to employees to the extent authorized by law, collective bargaining agreements, City policies and these Rules. A request for a leave must be submitted in writing to the employee's Department Head setting forth the type of leave, the reasons for the leave and the time period requested. The Department Head must provide the Human Resources Department with notice of any leaves granted. Approval of the Human Resources Director may be required. Any unauthorized absence of an employee may be grounds for disciplinary action or separation from service.

### 14.2 LEAVES WITH PAY

#### A. Authorized Leaves With Pay

Leaves with pay may be granted for the following purposes:

1. Education and training;
2. Temporary appointment with federal, state or other governmental agencies pursuant to Washington or federal law;
3. Civil duties required during scheduled working hours, such as service as a juror or witness;
4. Service as a union or labor association representative or for union/association business, as authorized by a collective bargaining agreement;
5. Civil Service or required medical examinations;
6. Annual military training;
7. Other purposes authorized by law, City policy, collective bargaining agreements, or in the best interests of the Civil Service.

#### B. Effect of Paid Leave

An employee on paid leave retains all Civil Service rights, status and rank and continues to earn service credit as provided in these Rules.

### 14.3 LEAVES WITHOUT PAY

#### A. Authorized Leaves Without Pay

Leaves of absence without pay may be granted by the employee's Department Head as provided by law, City policy, or collective bargaining agreements, or when otherwise appropriate and not contrary to the interests of the City.

#### B. Duration

A leave of absence without pay exceeding thirty (30) calendar days must be approved by the employee's Department Head and the Human Resources Director. Extended leaves of absence without pay beyond ninety (90) calendar days may be granted by the employee's Department Head and Human Resources Director only when authorized by law or when the City will benefit from the leave. This Rule shall not apply to leaves for disability, military service, public office or to take another position within City service.

### 14.4 LEAVES TO TAKE CITY OFFICE

#### A. Uniformed Police and Fire Employees-- Leave to Take Exempt Uniformed Position.

1. **Leave Granted.** A regular employee or a promotional probationer who leaves a uniformed Civil Service position in the Police or Fire Departments due to appointment to an exempt, uniformed position in the same Department shall be on a leave of absence without pay from the Civil Service position for the entire time the employee holds the exempt uniformed position.

An original probationer in a uniformed Police or Fire position appointed to an exempt, uniformed position in the same Department may be granted a leave of

absence without pay if the Commission deems such leave to be in the best interests of the Civil Service. If the original probationer is denied a leave of absence the probationer shall lose Civil Service status and service credit when he or she leaves the Civil Service position.

2. **Return from Leave.** Uniformed Police and Fire employees who leave to take an exempt, uniformed position in the same Department shall, upon written request of the employee, be returned to the same class held prior to the leave at the expiration of the leave.
3. **Service Credit.** A regular uniformed Police or Fire employee on a leave of absence to take an exempt, uniformed position in the same department receives service credit in the employee's regular class for each service credit month that the employee is on a leave of absence to take the uniformed City office.

**B. Leave to Take Elective City Office**

1. **Leave Granted.** A regular employee or promotional probationer who leaves a Civil Service position due to election or appointment to an elective City office that is exempt from Civil Service shall be on a leave of absence without pay from the Civil Service position for the entire time the employee holds the elective office up to eight (8) years from the effective date of the leave.

An original probationer elected to an exempt City office may be granted a leave of absence for the entire time the employee holds the office up to eight (8) years from the effective date of the leave, or for such shorter time period specified by the Commission, if the Commission deems such leave to be in the best interests of the Civil Service. If the original probationer is denied a leave of absence the probationer shall lose Civil Service status and service credit when he or she leaves the Civil Service position.

2. **Return from Leave for Elected Office.** An employee on leave for elected City office shall, upon written request of the employee, be returned to the same class the employee held immediately prior to the leave at the expiration of the leave if the leave expires within four (4) years from the effective date of the leave. If the leave expires more than four (4) years from the effective date of the leave the employee shall be returned to a vacant position within the same class, if a vacancy exists. If no vacancy exists the employee shall be placed on an appropriate reinstatement register, as provided in Rule 9.6, provided the employee shall remain on the register for no more than the shorter of the time period specified in Rule 9.6 (three (3) years from date of placement on the register plus one year extension) or eight (8) years from the effective date of the leave.

If, due to a lack of service or retention credit or the lack of a position, the employee is not returned to the Civil Service class at the expiration of a leave lasting no more than four (4) years the employee shall, upon written request, have the rights relating to lay-off or placement in lieu of lay-off provided in Chapter 13 and/or placement on an appropriate reinstatement register as provided in Rule 9.6.

3. **Service Credit.** No service credit is earned for time that an employee is on a leave of absence to take elective City office unless an applicable collective bargaining agreement provides otherwise.

**C. Leave for Exempt Position in Same Class.**

1. **Leave Granted.** An employee who leaves a Civil Service position to take a position in the same classification but in a department that is not covered by Civil Service shall be on a leave of absence without pay from the Civil Service position as specified in an applicable collective bargaining agreement, or, as specified in subsections D or E below if an applicable agreement does not otherwise provide. An original probationer appointed to an exempt position in the same classification may be granted a leave of absence if the Commission deems such leave to be in

the best interests of the Civil Service. If the original probationer is denied a leave of absence the probationer shall lose Civil Service status and service credit when he or she leaves the Civil Service position.

2. **Return from Leave.** An employee who leaves to take an exempt position in the same class held prior to the leave shall have the return rights specified in an applicable collective bargaining agreement, or as specified in subsections D and E below if an applicable agreement does not provide otherwise.
3. **Service Credit.** No service credit is earned for time that an employee is on a leave of absence to take an exempt position in the same class unless an applicable collective bargaining agreement provides otherwise.

**D. Leave to Take City Office Granted Prior to March 14, 2012.**

1. **Leave Granted.** Employees on a leave of absence to take City office at the date of adoption of this Rule (March 14, 2012) shall remain on leave of absence for the longer of 1) the time period specified in subsections A.-C. as applicable to the employee, or 2) the entire time the employee holds the exempt position up to four (4) years from the date of adoption of this Rule.
2. **Return from Leave.** At the expiration of a leave an employee on a leave of absence to take City office at the date of adoption of this Rule (March 14, 2012) shall, upon the written request of the employee, be returned to the same class held immediately prior to the leave during the longer of (1) the time periods specified in subsections A, B, C and E, as applicable to the employee, or (2) four (4) years from the date of adoption of this Rule (March 14, 2012). If the employee's prior class has been eliminated or significantly modified during the leave period but a substantially similar classification exists, the employee shall be returned to the substantially similar classification provided a vacant position exists at the expiration of the leave. For purposes of this Rule, "substantially similar" means having the same or substantially similar characteristics, functions and requirements. This determination shall be made by the Human Resources Director, subject to appeal to the Commission.  
If, due to a lack of service or retention credit or the lack of a position, the employee is not returned to the Civil Service class at the expiration of the leave the employee shall, upon written request, have the rights relating to lay-off or placement in lieu of lay-off provided in Chapter 13 and/or placement on an appropriate reinstatement register as provided in Rule 9.6.
3. **Service Credit.** Service credit earned prior to the effective date of this Rule during the time the employee was on a leave of absence to take City office is retained. On and after the effective date of this Rule no service credit is earned for time that an employee is on a leave of absence for City office other than for a uniformed, exempt position in the Police or Fire Departments or as specified in an applicable collective bargaining agreement.

**E. Leave to Take City Office--All Others.**

1. **Leave Granted.** A regular employee or promotional probationer who leaves a Civil Service position after the effective date of this Rule (March 14, 2012) due to appointment to a City position that is exempt from Civil Service other than (1) a uniformed, exempt position in the Police and Fire Departments, (2) elective City office or (3) an exempt position in the same classification with leave and return rights specified in an applicable collective bargaining agreement, shall be on a leave of absence from the Civil Service position for the entire time the employee holds the exempt position up to four (4) years from the effective date of the leave. An original probationer appointed to an exempt City position may be granted a leave of absence without pay if the Commission deems such leave to be in the best interests of the Civil Service. If an original probationer is denied a leave of absence the probationer shall lose Civil Service status and service credit when he or she leaves the Civil Service position.

2. **Return from Leave.** An employee on a leave to take City office granted after the effective date of this Rule (March 14, 2012), other than (1) a uniformed, exempt position in the Police or Fire Departments, (2) elective City office or (3) an exempt position in the same class with leave and return rights specified in an applicable collective bargaining agreement, shall, upon written request of the employee, be returned to the same class held immediately prior to the leave if the leave expires within six (6) months of the effective date of the leave. If the leave expires more than six (6) months after the effective date of the leave the employee shall be returned to a vacant position in the same class held prior to the leave if a vacancy exists.

If no vacant position exists at the expiration of a leave lasting more than six (6) months the employee shall, upon written request of the employee, be placed on an appropriate reinstatement register as provided in Rule 9.6, provided that the employee shall remain on the register for no more than the shorter of the time period specified in Rule 9.6 (three (3) years from date of placement on the register plus a one (1) year extension), or four (4) years from the effective date of the leave.

If, due to a lack of service or retention credit or the lack of a position, the employee is not returned to the Civil Service position at the expiration of a leave lasting no more than six (6) months the employee shall, upon written request, have the rights relating to lay-off or placement in lieu of lay-off provided in Chapter 13 and/or placement on an appropriate reinstatement register as provided in Rule 9.6.

3. **Service Credit.** No service credit is earned for time that an employee is on a leave of absence to take City office other than an exempt, uniformed position in the Police or Fire Departments or as specified in an applicable collective bargaining agreement.

**F. Return from Leave Conditional.**

An employee on a leave of absence to take City office shall not be returned to the Civil Service class unless he or she retains the minimum qualifications for the class or position. In the event a required certification or license has lapsed the employee may be permitted a reasonable period of time to obtain recertification or licensing, at the discretion of the Department Head or Human Resources Director.

**G. Failure to Return from Leave.**

If the employee fails to return to the Civil Service at the expiration of the authorized leave to take City office as provided in these Rules the employee shall be separated from the Civil Service unless excused by the employee's Department Head or the Human Resources Director for good cause demonstrated by the employee.

#### 14.5 LEAVES TO TAKE OTHER PUBLIC OFFICE

A regular employee or promotional probationer who leaves a Civil Service position due to election or appointment to an office of the State of Washington or a political subdivision of the State other than the City of Bellingham, or of the United States or any of its agencies may request, in writing, a leave of absence without pay. The Commission may grant the leave for the entire length of time the office is held, or for a shorter period of time designated by the Commission, upon such terms and conditions as the Commission deems appropriate, if the Commission determines that the leave is consistent with the best interests of the Civil Service.

Original probationers who leave a position to take such public office and other employees who do not request or who are denied a leave of absence will be separated from the Civil Service when they leave the Civil Service position.

#### 14.6 MILITARY LEAVE

Military leave is governed by applicable law and City policy.

**14.7 DISABILITY LEAVE**

Disability leave is governed by applicable law and City policy.

**14.8 RETURN FROM LEAVE**

**A. Return from Paid Leave or Unpaid Leave Not Exceeding 90 Days**

An employee on a leave with pay or a leave without pay not exceeding ninety (90) calendar days shall return to the same class the employee held prior to the leave at the expiration of the authorized leave. Failure of an employee to return to work upon the expiration, cancellation or revocation of a leave of absence is cause for disciplinary action or separation from service unless the employee is excused by the employee's Department Head or the Human Resources Director for good cause demonstrated by the employee.

**B. Return from Leave to Take other Public Office.**

An employee on a leave to take other Public Office shall, upon written request of the employee, return to the same class the employee held immediately prior to the leave at the expiration of the authorized leave as specified in the Order granting the leave. If the Order granting leave does not specify return rights and conditions the employee shall be returned to the same class held prior to the leave if the leave expires within six (6) months of the effective date of the leave. If the leave expires more than six (6) months after the effective date of the leave the employee shall be returned to a vacant position in the same class held prior to the leave.

If no vacant position exists at the expiration of a leave lasting more than six (6) months, the employee, upon written request, shall be placed on an appropriate reinstatement register for the shorter of the time period specified in Rule 9.6 (three (3) years plus a one year extension) or four years from the effective date of the leave.

If, due to a lack of service or retention credit or the lack of a position, the employee is not returned to the Civil Service class at the expiration of a leave lasting no more than six months the employee shall, upon written request, have the rights relating to lay-off or placement in lieu of lay-off provided in Chapter 13 and/or placement on an appropriate reinstatement register as provided in Rule 9.6.

An employee on a leave to take other Public office shall not be returned to the Civil Service class unless he or she retains the minimum qualifications for the class or position. In the event a required certification or license has lapsed the employee may be permitted a reasonable period of time to obtain recertification or licensing, at the discretion of the Department Head or Human Resources Director.

If the employee fails to return to the Civil Service at the expiration of an authorized leave to take other public office as provided in these Rules the employee shall be separated from the Civil Service unless excused by the employee's Department Head or the Human Resources Director for good cause demonstrated by the employee.

**C. Return from Other Extended Leaves Without Pay.**

An employee on a leave without pay exceeding ninety (90) calendar days not covered by Rule 14.4 or subsection B above will be restored at the expiration of the leave to the position held prior to the leave only if the position has not been declared vacant, or has not been filled by regular appointment. If the position has been filled by regular appointment the employee on leave will receive lay-off status and be placed on an appropriate reinstatement register.

Returning Employee	Earn Service Credit During Leave	Right to Return to Vacant Position	Right to Displace Active CS Employee with Less CS Credit	Right to Reinstatement Register	Maximum Duration of Leave
Uniformed Police or Fire on Leave from Uniformed Exempt Position in Same Department	Yes 14.4A (3)	Unlimited 14.4A (2)	Unlimited 14.4A (2)	N/A	Unlimited 14.4A (1)
Returning from Elective Office	No 14.4B (3)	Within 8 Years from Date of Leave 14.4B (2)	Within 4 Years from Date of Leave 14.4B (2)	Up to 8 Years from Date of Leave 14.4B (2)	8 Years from Date of Leave 14.4 B (1)
On Leave as of 3/14/2012 Returning from Non-Uniformed Exempt Position	No* 14.4D (3)	Within 4 Years from 3/14/2012 14.4D (2)	Within 4 Years from 3/14/2012 14.4D (2)	Within 4 Years from 3/14/2012 14.4D (2)	4 Years from 3/14/2012 14.4D (1)
All Others	No* 14.4E (3)	Within 1 Year from Date of Leave 14.4E (2)	Within 6 months from Date of Leave 14.4E (2)	Within 4 Years from Date of Leave 14.4E (2)	4 Years from Date of Leave 14.4E (1)
Uniformed Police or Fire on Leave from Non-Uniformed Exempt Position	No 14.4E (3)	Within 4 Years from Date of Leave 14.4E (2)	Within 6 Months from Date of Leave 14.4E (2)	Within 4 Years From Date of Leave 14.4E (2)	4 Years from Date of Leave 14.4E (1)

\*Service Credit Earned During Leaves Prior to March 14, 2012 is retained; Collective Bargaining Agreements may Provide for Service Credit During Leave.

**14.9 CANCELLATION/REVOCATION OF LEAVE**

A leave without pay may be canceled if the Department Head determines that cancellation of the leave is necessary to the efficient operations of the Department.

A Department Head may revoke an employee's leave without pay if the Department Head determines that the employee is using the leave for a purpose other than that for which it was granted.

An employee may be ordered to return to work immediately or as soon as possible upon written notice from the Department Head of the cancellation or revocation of a leave. A copy of the notice of cancellation or revocation of a leave shall be filed with the Human Resources Department at or prior to the time it is provided to the employee.

## CHAPTER 15 RESIGNATION

### 15.1 VOLUNTARY RESIGNATION PROCEDURE

An employee may resign from City employment by submitting a written letter of resignation to the Department Head of the employee's department at least ten (10) days prior to the effective date of the resignation. The resignation letter shall state the reasons for the resignation and the date of the employee's last day of employment. The Department Head may waive all or part of the required ten (10) day notice. To be considered a voluntary resignation the Department Head must agree that the termination of employment is not for cause.

### 15.2 INVOLUNTARY RESIGNATION

The Commission may set aside a resignation and reinstate an employee if it determines, after a hearing, that the resignation was not voluntary. An employee or former employee may file a written petition with the Commission no later than ten (10) days following the effective date of resignation if the employee claims that the resignation was not voluntary. If no petition is filed within the ten (10) day period the resignation shall be conclusively presumed to be voluntary and made without duress or coercion.

### 15.3 WITHDRAWAL OF RESIGNATION

The Human Resources Director may permit the withdrawal of a resignation if the employee files a written request for withdrawal within ninety (90) calendar days of the effective date of resignation and the employee's Department Head recommends approval of the request.

### 15.4 IMPLIED RESIGNATION

- A. **Determination of Implied Resignation.** A Department Head may determine that an employee has voluntarily resigned if:
1. The employee is absent without leave or fails to return to duty following the expiration of a leave or suspension for at least five (5) consecutive working days; or
  2. The employee has orally indicated that he or she has resigned or quit and has been absent from duty without authorization for at least three (3) working days.
- B. **Notice of Determination/Effective Date.** The Department Head shall send notice to the employee by registered or certified mail of a determination of implied voluntary resignation. A copy of the notice shall be filed with the Human Resources Department. The effective date of such a resignation shall be five (5) days after the required notice is mailed.
- C. **Rebuttal by Employee.** If, prior to the effective date of resignation, the employee reports for duty, applies for reinstatement, or provides written evidence or justification to rebut the presumption that the employee has voluntarily resigned; and the Department Head or the Commission is satisfied that the employee has not voluntarily resigned, the resignation shall not take effect.

### 15.5 RETURN TO REGISTER AFTER VOLUNTARY RESIGNATION

A former employee who has voluntarily resigned may be placed on a supplemental register as provided in Rule 9.5.

## **CHAPTER 16 DISCIPLINE**

### **16.1 GENERAL**

- A. All disciplinary actions shall be made in good faith and for cause.
- B. Written record of each official reprimand, suspension, demotion and discharge shall be served on the employee personally or by mail and filed with the Human Resources Department for placement in the employee's personnel file.

### **16.2 REPRIMANDS**

- A. Official reprimands shall be in writing in a form prescribed by the Human Resources Director, signed and dated by the Department Head, and shall specify the reasons for the reprimand.
- B. Oral reprimands and other reprimands that are not made in accordance with the procedures specified in this Rule shall not be considered official reprimands under the Civil Service system, and are not subject to Commission review.

### **16.3 SUSPENSION**

- A. Suspension of an employee with or without pay shall be authorized by the Department Head. Suspensions shall be for a reasonable period of time not to exceed fifteen (15) calendar days for a single incident, or thirty (30) calendar days in a calendar year for more than one incident.
- B. No employee may be suspended more than once for the same incident.
- C. Suspensions with pay for pre-disciplinary investigation or review are not subject to the limitations in this Rule.
- D. Deprivation of vacation or other paid leave, compensatory time-off, or other compensation that an employee is entitled to receive shall be considered suspension without pay.

### **16.4 DEMOTION**

- A. An employee who is demoted to a lower class shall lose all rights to the higher class.
- B. Demotion of an employee shall not result in displacement of a regular employee with more retention credit for the lower class, or a probationer if the demoted employee has no retention credit for the lower class.
- C. The Human Resources Director must be satisfied that the demoted employee can satisfactorily perform the duties of the lower class.
- D. The Human Resources Director or Department Head may require the demoted employee to serve a trial period in the lower class for the purpose of determining whether the employee is capable of satisfactorily performing the duties of the class. The Department Head (or Human Resources Director) shall determine the period of time and conditions for the trial period.
- E. After satisfactory completion of any required trial period, or the effective date of demotion if no trial period is required, the demoted employee shall have standing in the lower class.

### **16.5 DISCHARGE**

An employee who is discharged for reasons other than physical or mental disability shall lose all rights to City employment and shall not be eligible for placement on a reinstatement register.

### **16.6 CAUSE FOR DISCIPLINE**

The following acts, omissions and conditions shall constitute cause for discipline:

1. Incompetency, inefficiency or inattention to duty.
2. Absence from duty without leave or authorization.
3. Willful violation of rules, orders or direction adopted or given by the Commission, City or Department policies or procedures, Department Heads or supervisors,

- where the violation results in insubordination, breach of proper discipline, or a risk of damage, loss or injury to the City, another employee or the public.
4. Conviction of a felony, gross misdemeanor, misdemeanor involving moral turpitude, or any offense committed while on duty or which adversely affects job performance or qualification for the position.
  5. Criminal, dishonest, deceptive or fraudulent statements or conduct tending to impair or injure the City, the Civil Service system, other employees, applicants for City positions, citizens utilizing City services, or the public.
  6. Malicious conduct or language toward another employee or the public.
  7. Gross negligence or recklessness in the use of City property.
  8. Unauthorized taking, damaging, destroying or altering City property or records.
  9. Willfully inducing another person to engage in prohibited conduct.
  10. Any other act or failure to act which, under the law or these Rules, or in the judgment of the Commission consistent with merit principles, warrants disciplinary action.

## CHAPTER 17 APPEALS AND HEARINGS

### 17.1 APPEALS

The following actions or determinations may be appealed to the Commission:

- A. For regular employees:
  1. An official written reprimand;
  2. Demotion;
  3. Suspension;
  4. Termination.
- B. For an employee the Department Head alleges is probationary:
  1. Probationary status;
  2. Failure to follow procedures required by these Rules for the discharge of a probationary employee;
  3. Discharge in violation of applicable law.
- C. For any adversely affected employee:
  1. Violation of these Rules;
  2. Proposed layoff;
- D. Any adversely affected person may appeal a decision or action of Commission staff. The Commission, in its discretion, determines whether a hearing should be granted on such appeals.

**\*Note:** In many cases regular employees are precluded by a collective bargaining agreement from pursuing an appeal of an adverse employment action to the Commission. The agreement may provide a grievance procedure that is the exclusive remedy for employees covered by the agreement. Employees should consult the applicable agreement before filing an appeal with the Commission.

### 17.2 NOTICE OF APPEAL

A written notice of appeal shall be filed with the Commission within ten (10) days of the date of the action or decision that is the subject of the appeal. The notice shall contain the following information:

- A. Name of Appellant;
- B. Mailing address and street address where papers may be served on the Appellant;
- C. The action or decision appealed and the date of such action or decision. If it is written a copy shall be attached;
- D. A concise statement of the facts and basis for the appeal;
- E. The relief sought.

The Commission may, on its own motion, or at the request of a party, require a more definitive statement of the specific facts and issues alleged in an appeal.

### 17.3 ACTIONS/REVIEW BY HUMAN RESOURCES DIRECTOR

Upon receipt of an appeal the Human Resources Director shall take the following actions:

- A. Provide copies of the Notice of Appeal to affected parties.
- B. Review the appeal to determine whether it has been filed in a timely manner and whether the action appealed is final. The Director shall dismiss appeals that are not timely and stay appeals of actions that are not final until the action becomes final.
- C. Issue orders regarding preliminary matters, including motions for discovery, continuance, protective orders, subpoenas and other similar matters. The Director may prescribe forms and procedures relating to such motions.

**17.4 NOTICE OF HEARING**

Within ten (10) days of receipt of a timely Notice of Appeal of a final action or decision the Director shall schedule a hearing before the Commission. This initial hearing may be limited to the setting of a hearing schedule. Notice of hearings shall be provided to affected parties at least ten (10) days prior to the hearing date. The notice of hearing shall contain the date, time and place of the hearing and the names of Commissioners who will participate in the hearing.

**17.5 FILING**

Papers are filed with the Commission upon receipt at the Human Resources Department offices during business hours. Except as otherwise ordered by the Commission briefs and memoranda shall be filed at least three (3) days prior to the hearing.

**17.6 SERVICE OF PAPERS**

Each party shall serve all papers filed with the Commission, except the initial Notice of Appeal, on all other parties. Service shall be directed to counsel of record for represented parties and to parties not represented by counsel. Papers may be served personally, by U. S. Mail, or to City employees, by intra-City mail. Proof of service in the form of an affidavit or declaration under penalty of perjury, signed by the person serving the papers, and specifying the manner of service shall be attached to papers filed. Service is complete upon mailing to a correct address with necessary postage or personal delivery to the party or counsel of record.

**17.7 PARTIES**

Parties to an appeal include the Appellant, a Department Head whose decision or action is the subject of the appeal, and any other person granted party status by the Commission or by order of the Human Resources Director. Counsel for a party shall file a written notice of appearance. Each party shall notify the Commission and other parties in writing of any change in the party's mailing or street address and telephone number. Failure to provide correct and current address and telephone information waives the party's right to further notices and service of papers.

**17.8 DISCOVERY**

Parties shall provide reasonable access and discovery of all relevant information upon the written request of another party specifying the desired information. Discovery of such information need not be filed with the Commission but shall be served on other parties. The Human Resources Director may issue orders relating to discovery.

**17.9 SUBPOENAS**

The Human Resources Director may issue subpoenas for the attendance and testimony of witnesses and for the production of physical evidence relevant to a proceeding before the Commission. Requests for subpoenas shall be filed with the Commission at least three (3) days prior to the hearing. The party requesting the subpoena is responsible for preparation of the subpoena in a form prescribed by the Director and service upon the person named in the subpoena. Proof of service shall be filed with the Commission. The Commission may quash or modify a subpoena upon the motion of a party or the subject of the subpoena if the Commission determines that it is unreasonable or seeks evidence not relevant to the proceeding.

**17.10 BURDEN OF PROOF**

- A. At a hearing on the appeal of a demotion or termination of a regular employee the Department Head has the burden of showing by a preponderance of the evidence that the action was for cause.
- B. At a hearing on the appeal of a proposed layoff the Department Head has the burden of showing, by a preponderance of the evidence, that the layoff is in good faith and not for an improper purpose.

- C. On appeal of a suspension the Appellant has the burden of establishing that the action is arbitrary and capricious or an abuse of discretion, or, by a preponderance of the evidence, that it is unlawfully discriminatory, unreasonable or a violation of applicable law or these Rules.
- D. At a hearing on the appeal of all other matters the Appellant has the burden of establishing the facts and propositions supporting a request for relief by a preponderance of the evidence.
- E. The Commission will not substitute its judgment for the reasonable, discretionary judgment of a Department Head.

#### **17.11 EVIDENCE**

- A. All parties have the right to testify and present competent and relevant evidence.
- B. The Rules of Evidence governing civil actions in Washington State Superior Courts provide guidance in the admissibility of evidence but are not binding on the Commission. The Commission may admit evidence of probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The rules of privilege apply to Commission proceedings.
- C. Witnesses shall testify under oath or affirmation and shall be subject to cross-examination.
- D. The Commission may receive evidence subject to a later ruling regarding admissibility when an objection is made.
- E. The Commission may exclude inadmissible and repetitive evidence.
- F. Objections to evidence shall be stated at the time the evidence is offered or they shall be deemed waived.
- G. Copies of documentary exhibits shall be provided to each opposing party, each Commissioner, the Human Resources Director, and the Recording Secretary at or prior to the time they are offered as evidence.
- H. Requests of parties to stipulate to the admission of exhibits and to relevant, undisputed facts should be served on other parties at least three (3) days prior to the hearing. Responses shall be served at least one (1) day prior to the hearing. Stipulations are encouraged and may be submitted to the Commission at any time prior to the Commission's decision by agreement of the parties.
- I. No person shall attempt to convey any information or opinion to the Commission or Commissioners concerning any matter on appeal other than in the open hearing and materials filed in the proceeding.

#### **17.12 CONDUCT OF HEARING**

- A. The Chair presides over hearings, administers oaths and affirmations and rules on matters of procedure and admissibility of evidence.
- B. The Commission may designate a qualified attorney as a hearing examiner to rule on all matters of procedure and admissibility of evidence, subject to the control of the Commission.
- C. Commissioners and the hearing examiner may question witnesses.
- D. The Commission may include records in its possession in the record of the proceeding. It may take notice of judicially cognizable facts and general, technical and scientific facts within its knowledge. Parties shall be advised at or prior to the hearing of material noticed or included in the record and afforded an opportunity to contest such records and facts.
- E. Unless otherwise ordered by the Commission the party with the burden of proof shall present his or her case first.

#### **17.13 COMMISSION ACTION**

- A. At the close of the hearing the Commission may request or allow the parties to submit post-hearing briefs or written argument.
- B. The Commission may deliberate in executive (closed) session in disciplinary cases and other quasi-judicial matters, and as permitted by the Open Public Meetings Act.

- C. The Commission shall issue a ruling within ten (10) days after the close of the hearing or the final date for submission of written argument. A written decision, including Findings of Fact, Conclusions of Law, and an Order, will be served on each party. Official adoption of the Findings, Conclusions and Order may not occur until the next regular meeting of the Commission, at the discretion of the Commission.
- D. The date of decision shall be the date the Order is officially adopted by the Commission.
- E. The Commission may affirm, reverse, or modify actions of Commission staff and Department Heads and may issue remedial orders as it deems appropriate, including, but not limited to, reinstatement without penalty if charges against an employee are not upheld.

**17.14 RECONSIDERATION**

A party may request that the Commission reconsider its decision only on the basis of fraud or clear mistake of facts or law. The request for reconsideration shall be filed within ten (10) days of the date of decision and shall be accompanied by an affidavit or declaration setting forth the basis for the request.

Filing a request for reconsideration does not prevent the expiration of time for filing an action for judicial review unless the request for reconsideration is granted by the Commission.

The request is deemed denied if the Commission does not act on it within the later of ten (10) days after the date the request is filed, or on or before the date scheduled for the next regular meeting.

Unless reconsideration is granted the decision of the Commission shall be final at the time it is officially adopted, provided that the Commission may correct clerical errors or other clear mistake on its own motion.

**17.15 WAIVER, WITHDRAWAL AND STIPULATIONS**

Upon agreement of the parties the Commission, in its discretion, may waive time limitations and other procedural requirements of this Chapter.

The Appellant may withdraw the appeal at any time prior to the beginning of the hearing. The parties may agree at any time to the settlement and dismissal of a matter. Upon submission of a stipulation for dismissal signed by the parties the matter will be dismissed.

## **CHAPTER 18 RETIREMENT**

### **18.1 RETIREMENT**

Employees shall be retired in accordance with applicable provisions of law.

### **18.2 REINSTATEMENT AFTER DISABILITY RETIREMENT**

- A. **Determination of Recovery.** If the Human Resources Director determines that a former employee who has been retired for disability has recovered so as to be capable of performing the duties of the former employee's regular class the Human Resources Director shall either return the former employee to the employment status held prior to disability retirement, as if the employee had been on a leave of absence; or place the former employee on a reinstatement register for a class previously held by the retired employee.
- B. **Provisions for reinstatement of members of the LEOFF retirement system are set forth in RCW 41.26.**
- C. **Effect.** Upon reinstatement or placement on a reinstatement register after disability retirement:
  - 1. Service credit earned prior to disability retirement shall be continued.
  - 2. Eligibility for selection from a reinstatement register shall not expire prior to reinstatement.
  - 3. Reinstatement of the employee shall be to the class last held by the employee or to a class for which the employee is eligible for a transfer or reduction in accordance with these Rules.
  - 4. The period of retirement shall not be included in service credit calculation.

### **18.3 DISABILITY RETIREE DISCHARGED FOR CAUSE**

An employee who is discharged for cause other than physical or mental unfitness is not eligible for reinstatement or placement on a reinstatement register as provided in this Rule, even if the employee is retired for disability or receives a disability retirement allowance.