

## STATEMENT OF POLICY

The purpose of these Rules is to establish, for the City of Shelton, a system of personnel administration based on modern principles and methods of governing the appointment, promotion, transfer, layoff, recruitment, retention, classification, removal, discipline and welfare of its Civil employees. It is intended that these Rules will supersede all previous rules established by this and former City of Shelton Civil Service Commissions.

### RULE 1. GENERAL PROVISIONS

#### 1.01 AUTHORITY AND APPLICATION.

These rules are promulgated pursuant to the authority granted by Chapter 41.08 RCW, Civil Service for City Firemen and Chapter 41.12 RCW, Civil Service for City Police. These rules are applicable to proceedings before the Civil Service Commission and should be read in conjunction with the applicable RCW's.

#### 1.03 SCOPE AND PURPOSE.

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

#### 1.05 EXEMPTIONS.

These rules shall apply to all police department and fire department employees within the City of Shelton with the exception of parking checkers, animal control officers or other similar personnel.

#### 1.07 PRESUMPTION OF VALIDITY.

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

#### 1.09 SEVERABILITY.

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

## RULE 2. ADMINISTRATION AND OPERATIONS

### 2.01 MEMBERS.

The Civil Service Commission will be composed of 3 members appointed by the Mayor with the approval of the City Commission to the term of six years staggered on two-year intervals.

### 2.03 COMMISSION--MEETINGS--QUORUM.

In the necessary conduct of its work; the Commission shall meet on the 3rd Wednesday of January, May, August, and November, at 4:30 P.M., at the City of Shelton Civic Center unless there is no pending business requiring Commission action. Notice of special meetings shall be provided as required by the Open Public Meetings Act Chapter 42.30 RCW, as amended. The commission shall conduct hearings as required. Notice of hearings shall be provided as required by these rules. Two members of the Commission shall constitute a quorum. No action of the Commission shall be effective unless two members concur therein. All commission meeting or hearings, regular or as required, shall be open and public. Provided, however, that the Commission may meet in executive session as authorized by the Open Public Meetings Act (Chapter 42.30 RCW, as amended). (Revised September 28, 1988).

### 2.05 CHAIR--VICE CHAIR.

At the first regular meeting in January of each year, the Commission shall elect one of its members as Chair and another member to serve as Vice Chair for a term of one year. Should a Chair and/or vice Chair resign or be removed from the position prior to the expiration of his/her term, the Commission, upon appointment of a new member, shall proceed to the election of a new Chair and/or Vice Chair, whichever position becomes vacant. Upon resignation or removal by the Chair, the Vice-chair shall become Chair.

### 2.07 RULES OF ORDER.

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

### 2.09 COMMISSIONERS--CHALLENGE.

Any challenge to a Commissioner sitting at a hearing shall be made by an interested party prior to the commencement of a hearing. The challenged Commissioner shall review and rule on the challenge prior to proceeding with the hearing.

Upon a Commissioner's finding of cause for disqualification, the Commissioner shall take no part in the hearing. Failure to timely raise a challenge constitutes a waiver of the challenge by the party unless, in the exercise of reasonable diligence, a basis for challenge is unknown to a party before the hearing commences.

**2.11 COMMISSIONERS--CHALLENGE--NECESSITY**

If as a result of disqualification(s) pursuant to Rule 2.09, there is no longer a lawfully constituted quorum available, and then by reason of necessity the disqualified Commissioner(s) shall return and proceed with the hearing.

**2.13 OFFICE--HOURS.**

The office (and post office) address of the Civil Service Commission is 525 W. Cota Street, City Hall. The regular office hours of the Commission (secretary/staff) shall be 8:00 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

**2.15 PUBLIC RECORDS.**

Public records of the Commission shall be available for inspection and copying during the regular office hours. No fee will be charged for inspection of public records. Inspection will be during office hours in a space provided by the staff, and under its supervision, and must be accomplished without excessive interference with essential functions of the City. Copies will be made available at cost. These rules shall be printed for free public distribution.

**2.17 RECORD OF PROCEEDINGS.**

The Commission shall keep a record of its proceedings. The record of the Commission shall not include a written verbatim report of proceedings unless ordered. The Commission may retain a court reporter to record all or part of a proceeding. In addition, a party to a proceeding, at his/her own expense, may have a court reporter record all or part of a proceeding. On appeal or review, costs of transcription may be recovered by the Commission. Upon appeal or review, transcription and certification of a record of proceedings shall be arranged by the Secretary and Chief Examiner.

**2.19 REPORTS--APPLICANTS, ELIGIBLES, EMPLOYEES.**

A. Each applicant, eligible and employee, shall keep the Commission informed, by written notice to the Secretary, of current address and telephone number, and shall report any change of name through marriage or otherwise.

B. Each eligible shall keep the Secretary informed, in writing, regarding availability and any refusal to accept appointment or promotion and the reasons therefore.

## 2.21 REPORTS--DEPARTMENT HEADS.

Department Heads shall immediately report to the Secretary in such detail and on such forms as the Secretary may prescribe:

- A. Every appointment, transfer, promotion, demotion, reduction, layoff, reinstatement, suspension, leave of absence without pay, return to duty, assignment, change of position within a class or within an assignment title, change of title, change of compensation;
- B. Every separation from the service with the reasons therefore;
- C. Every refusal or failure to accept appointment by a person whose name has been certified.

## RULE 3. SECRETARY AND/OR CHIEF EXAMINER

### 3.01 VACANCY.

Upon vacancy in the office of Secretary and/or Chief Examiner, the Chairman of the Commission or, on his request, the City Clerk, shall announce the vacancy. Applications shall be accepted from any person meeting the minimum requirements for the position, including employees of the City, but excluding members of the police and fire departments. The Commission may combine the office Secretary and Chief Examiner, in which case the person selected shall be responsible for the duties of both offices.

### 3.03 DUTIES.

The Secretary and/or Chief Examiner shall keep and be the official custodian of:

- A. All records and files of the Commission,
- B. Receive and preserve all reports made to it.
- C. Keep the minutes of the meetings, hearings and other activities of the Commission,
- D. Be responsible for the correspondence of the Commission,
- E. Order appropriate exams, administer said exams and keep a record of all examinations as directed by the Commission,
- F. Maintain eligibility list,
- G. Maintain a record of permanent and temporary positions held by all persons under the classified service,
- H. Make investigations and reports to the Commission as required, and perform such other duties as the Commission may prescribe.
- I. Other duties as required by the Commission.

## RULE 4. RULE MAKING

### 4.01 AMENDMENTS OF RULES.

The Commission may amend these rules or adopt new rules by majority vote of the Commission at any regular or special meeting of the Commission. .

### 4.03 EMERGENCY.

Unless upon emergency declared by all Commissioners present, amendment to these rules shall be first discussed in an open regular or special meeting at least one meeting prior to adoption. Upon declaration of emergency, a rule amendment may be adopted at the meeting at which the amendment is first proposed.

### 4.05 EFFECTIVE DATE OF RULES.

All rules and amendments shall become effective immediately upon their adoption by the Commission, unless some later date is specified therein.

### 4.07 COPIES OF RULES.

A copy of these rules and a copy of all subsequent rules or amendments shall be sent as soon as practicable after adoption to each affected department of the City. A copy shall be maintained in City Hall for public inspection and copies shall be available for free public distribution as required by State law.

### 4.09 EFFECT OF RULES.

The terms and conditions of civil service employment are governed by these rules, and applicable State and City Ordinances. No employee shall have a property interest in or as a result of these rules. These rules, and rules the Commission may enact, regulate the mode and appointment of tenure in the civil service, and employees are subject to these rules and amendments thereto.

## RULE 5. CLASSIFICATION

### 5.01 CLASSIFICATION PLAN.

The Commission shall adopt a classification plan for every position or group of positions that have like or similar duties and responsibilities. The classification should include:

- A. A specification and appropriate title.
- B. A description of duties and responsibilities.
- C. Minimum or desirable requirements of education, training, experience and other qualifications deemed necessary to carry out the duties described in the specifications.

5.03 UPDATING.

The classification plan will be updated yearly or when a new job description is written on a new position created.

5.05 SPECIFICATIONS.

The Secretary-Examiner, appointing authority, or department head may submit a classification specification to the Commission for adoption. The Commission shall review and modify or approve the specification.

5.07 ALLOCATION OF POSITIONS TO THE CLASSIFICATIONS PLAN.

All existing and new positions shall be allocated to one of the appropriate classifications. Allocations may be made to the department head subject to review and approval of the Commission. If the employee or department head disagree with the allocation, a written request for review by the Commission may be granted. The Commission shall inform the employee and department head in writing regarding its allocation.

5.09 REALLOCATION OF A POSITION.

When a position is occupied by a permanent employee and duties are changed substantially, the change shall be reported to the Commission by the department head or employee. The Commission shall audit the position and determine to what classification the position shall be allocated.

A. Downward Movement. If the position is reallocated downward, the employee shall be notified by the Commission ten (10) days prior to the effective date. The employee shall be compensated at the lower class, and be continued in the position. He may have his name placed upon the reinstatement and/or transfer registers for the class previously held prior to reallocation, provided he holds permanent status in that class.

B. Upward Movement. If the position is reallocated upward, the position shall be filled on a competitive basis.

RULE 6. APPLICATIONS & APPLICANTS

6.01 GENERAL REQUIREMENTS FOR FILING APPLICATIONS.

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

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

1. Meet the requirements specified in these rules and in the official examination bulletin and of the closing day of the official filing period; and

2. Produce evidence of education, training, experience, or any lawful requirement for a class, as directed by the Secretary.

C. Time for filing applications:

1. All applications for examination shall be filed with the Secretary during office hours and within the time limit fixed in the official announcement of examination, provided that upon written evidence of extenuating circumstance acceptable to the Secretary late applications may be accepted. Applications received by mail in the office of the Commission must be postmarked on or before the closing date.

2. The time for filing applications may be extended by the Secretary, as the needs of the service require, provided that the examination shall then be re-advertised in the official newspaper of the City.

#### 6.03 APPLICATIONS FOR PROMOTIONAL EXAMINATIONS.

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

B. When designated in the official bulletin, the Secretary may permit regular employees and probationers to file for and take a promotional examination for delayed eligibility if on the last day for accepting applications they meet lower specified minimum service requirements in the classes from which promotion is allowed.

#### 6.05 SPECIAL REQUIREMENTS.

A. The Secretary may prescribe such limits and such other specific requirements, physical or otherwise, as in the Secretary's judgment are required by and related to the work to be performed.

B. When designated on the official bulletins, the Secretary may permit filing by an applicant not more than one year under the specified minimum age on an open graded/entrance examination, and not more than one year under the specified experience on a promotional examination. A successful candidate will have delayed eligibility until the required minimum age or experience is attained.

#### 6.07 REJECTION OF APPLICATION OR ELIGIBLE.

The Commission may reject an applicant for examination, withhold from a register or from certification the name of an eligible, or remove from a register the name of an eligible if the applicant or eligible:

A. Does not meet the requirements set forth in these rules or in the bulletin announcing the examination;

B. Is physically or mentally unfit to perform the duties of the position sought;

C. Has been convicted of any felony or a misdemeanor involving moral turpitude (see Chapter 9.96A RCW);

D. Has been dismissed or has resigned in lieu of discharge from any position, public or private, for any cause which would be a cause for dismissal from City service; or has an unsatisfactory record of employment in the City service, or with any other agency or firm;

E. Has made any material false statement or has attempted any deception or fraud in connection with this or any other civil service examination;

F. Would directly work for or supervise a relative, or would occupy a position in the same line of authority or fiduciary chain within the City. For the purposes of this rule a relative is defined to include spouses, parents, children, sons and daughters-in-law, brothers, sisters, brothers and sisters-in-law, fathers and mothers-in-law, stepparents, stepbrothers, stepsisters and stepchildren.

G. Fails to appear for finger printing or other investigation as required;

H. Has assisted in preparing the examination for which application is sought, or has in any other manner secured confidential information concerning such examination which would give the applicant information unavailable to the other applicants;

I. After notification, did not promptly appear at the time and place designated for the examination;

J. Has been discharged from the Armed Forces under dishonorable conditions.

K. Such actions contemplated by this rule may also be taken for other material reasons.

#### 6.09 DEBARMENT FROM EMPLOYMENT.

A. No one who has been dismissed from the service for cause involving moral turpitude shall be allowed to again enter the service, and anyone dismissed for other good cause shall be allowed to again enter the service only by express consent of the Secretary;

B. Any applicant for appointment, promotion, re-employment, increase of salary, or other personal advantage, who shall directly or indirectly pay or promise to pay any money or other valuable thing to anyone whatever for or on account of such actual or prospective advantage, shall be ineligible for any further employment in the Civil Service.

#### 6.11 NOTICE ON NON-ACCEPTANCE.

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

6.13 ADMISSION TO EXAMINATION PENDING APPEAL.

The Secretary may admit to the examination anyone whose application was not accepted, pending final disposition of an appeal, such admission to be without prejudice to either the City or the applicant.

6.15 AMENDMENT OF APPLICATION.

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

6.17 APPLICATIONS NOT RETURNED.

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

6.19 APPLICATION FEE.

Where applicable the application fee shall be \$25.00. The application fee may be waived by the secretary/examiner because of inability to pay.

RULE 7. EXAMINATIONS

7.01 EXAMINATION NOTICES.

Examination notices shall be advertised in a manner which will attract a sufficient number of qualified persons to meet the needs of the City. The notice shall specify the title of the class for which applications are being accepted, opening and closing dates for acceptance of the applications, minimum or desirable qualifications, and any other information deemed necessary to attract applicants.

7.03 PROMOTION EXAMINATIONS.

Promotion examination notices shall be advertised at a conspicuous place.

7.05 COMPOSITION.

The Commission shall determine, by objective standards, the appropriate examination for a class and the tests, or combination of tests or relative weights to be assigned. A passing score shall be required of each test included in the examination. Examinations shall consist of one or a combination of the following:

- A. A written test.
- B. An oral test.
- C. An evaluation of experience and training.
- D. A physical performance test.
- E. A promotional evaluation.

7.07 EXAMINATION - TIME AND PLACE.

Examinations shall be held at such times and places as are necessary to meet the requirements of the City, provide economical administration, and are generally convenient for applicants. The secretary-examiner will establish time and place for the examination.

7.09 MINIMUM QUALIFICATIONS. (See specification for each classification in the addendum.) Upon the written request of the appointing authority, the Commission may waive or modify the minimum qualifications, except those established by LEOFF, for a class to fill a vacant position on a one-examination basis only when:

- A. There is an incomplete register following recent recruiting;
- B. An acting appointment is not feasible in that the position is supervisory or managerial in nature or otherwise requires the full and immediate discharge of duties and responsibilities;
- C. The Commission determines the established minimum or desirable qualifications to be appropriate under normal conditions and should not be permanently changed.

7.10 MINIMUM LATERAL ENTRY QUALIFICATIONS.

A. POLICE OFFICER: Education and experience: (1) High school diploma or equivalent and completion of a recognized police training academy or equivalent courses necessary to allow certification with the Washington State Training Commission within twelve months of employment; AND (2) A minimum one year full-time job experience as paid professional police officer with an active municipal or county agency within two years preceding appointment, OR (3) An equivalent combination of education and experience.

B. FIREFIGHTER: Education and experience: (1) High school diploma or equivalent and completion of the State Firefighter Recruit Academy or another recognized firefighter training academy; AND (2) A minimum one year full-time job experience as paid professional firefighter with an active municipal or county agency within two years preceding appointment.

C. COMMUNICATIONS OFFICER: Education and experience: (1) High school diploma or equivalent; AND (2) A minimum of one full year full-time job experience as a paid professional communications/dispatch/9-1-1 officer with an active municipal, county, or similar organization or agency within four years preceding appointment; OR (3) Successful completion of a recognized 9-1-1 dispatcher course at an accredited post-secondary institution may be substituted for experience on a month-for-month basis.

7.11 RE-EXAMINATION.

Upon applicant request, the secretary-examiner may authorize an applicant to retake a test provided that:

A. At least 180 calendar days have elapsed between the dates of the successive test administrations.

B. The Commission finds that the applicant's failure to take or complete an examination was due to an obvious error for which the Secretary-Examiner, his staff, or the appointing authority is responsible.

7.13 EXAMINATION RATINGS COMPUTATION.

All applicants for the same class shall be accorded uniform and equal treatment in all phases of the examination procedure. All scores shall be based on uniform and objective rating or scoring procedure. When the examination consists of two or more tests, failure of any one test shall constitute failure of the entire examination. Final scores that are tied will be broken by giving a higher rank to the individual with the highest oral test score.

7.15 EXAMINATION RESULTS - NOTICE REQUIREMENTS.

Each applicant shall receive prompt written notice of his final rating when it has been computed. Within thirty (30) calendar days following the test, the applicant may request and receive information regarding his score on the part of the examination. The same information may, upon request, be furnished to the appointing authority concerning a certified eligible.

7.17 EXAMINATION - ORAL EXAMINING BOARD.

The Oral Board shall be as directed by the Civil Service Commission. The Commission may request technical expertise to assist in the oral examinations. Scoring of the applicant shall be done as directed by the Commission.

7.19 EXAMINATIONS - PHYSICAL.

Before appointment, applicants shall be required to satisfactorily pass a health and physical examination adopted by LEOFF.

7.21 EXAMINATIONS - RECORDS AND RETENTION.

Applications and other necessary records shall be kept during the life of the register. Applications or copies of the appointees' applications may be transmitted to the appointing authorities on request. Examination records of applicants may be destroyed thirty (30) calendar days after the register expires.

7.23 EXAMINATION - VETERANS' PREFERENCE.

Shall be credited as provided in RCW 41.04.010, as amended.

7.25 EXAMINATION - LOCAL VOLUNTEER FIREFIGHTERS AND RESERVE POLICEMEN.

A bonus credit of up to 10% may be given to local volunteer firefighters and/or reserve policemen when an affidavit is filed by the Fire Chief or Police Chief with information as to the percentage. The recommendation will be based upon past experience, i.e., years served, training received, drills attended, fire ground or patrol experience and ability profile. Where veteran's preference also applies, no additional credit may be given for volunteer service.

7.27 EXAMINATION -EXEMPTION.

Applicants applying under lateral entry and meeting all of the qualifications will not be subject to examination by the Commission.

7.28 SUBSCRIPTION TESTING SERVICES

The Secretary, following approval by the Commission, may enter into contracts with one or more subscription testing services.

A. "Subscription testing service" means a person or organization offering a service those tests and maintains lists of candidates for employment who have successfully completed the subscription testing service process.

B. Process verification: The Secretary shall verify that the subscription testing service provides qualified testing resources that are content-valid and job-related.

C. Certification: All applicants certified as a qualified candidate by the subscription testing service shall be reviewed and approved by the Commission prior to referral to the appointing authority. Following qualification of candidates pursuant to the procedure set forth in the contract with the subscription testing service, candidates may be certified as eligible for appointment to the appointing authority.

D. By motion or other approval, the Commission may delegate to the Secretary the review and approval of candidates. Upon such delegation, the Secretary shall verify that candidates for placement on the eligible register meet the minimum eligibility requirements for employment.

E. Candidates qualified for appointment pursuant to the procedures established in this Rule (7.28) shall be placed on the register in the same rank and order as lists maintained by the subscription testing service. Provided, however, that candidates rejected for the following reasons:

1. Not satisfying any test requirement;
2. Not completing probation; or,
3. Following certification, not responding to the appointing authority for consideration shall be removed from the eligible register.

F. Additional Testing: Candidates qualified pursuant to a subscription testing service may be subject to additional testing as may be required by the Commission or the appointing authority. Such testing may include, but not be limited to, a background check, polygraph, psychological, and physical agility testing.

## 7.29 CONTINUOUS TESTING SERVICES

A. Continuous Testing Eligibility List: The Secretary/Chief Examiner, following approval by the Commission, may establish any eligibility list for use by applicants tested through and certified for eligibility through this continuous testing process.

B. Continuous Testing Defined: Continuous testing shall mean a written examination or a standardized physical fitness/agility test conducted pursuant to set and commonly applied standards whose results shall be valid for a period of one calendar year from the date of certification to a continuous testing initial eligibility list. Continuous testing may be offered through the Secretary/Chief Examiner or pursuant to a subscription testing agreement.

C. Certification: Applicants certified pursuant to a continuous testing process shall be placed on a continuous testing initial eligibility list. Certification shall be in accordance with the rules and regulations of this Commission. As each applicant is placed in accordance with his or her scores and veteran's preference (if applicable), the placement of all others on the list shall be adjusted.

D. Additional Testing: Applicants placed upon this continuous testing initial eligibility list may be subject to other testing processes conducted by the appointing authority.

E. Removal of Names: The names of candidates certified to this continuous testing initial eligibility list shall remain on the list until being selected to a secondary hiring list following an oral board or other testing, the expiration of one year from the date of certification or until the candidate has been hired by another public safety organization. Names may be removed upon notification by the candidate, upon the written notification of another public safety employer or an entity providing subscription testing.

## RULE 8. REGISTERS AND ELIGIBILITY

### 8.01 ESTABLISHMENT OF ELIGIBLE REGISTERS.

After each examination, an eligible register for the class shall be prepared on which the names of successful candidates shall be ranked as follows:

A. On a promotional register: relative rank shall be determined by the examination rating or grade, plus any additional points for service credit plus percentage allowed by law for veterans' preference.

B. On an open graded register: relative rank shall be determined by the examination grade, plus percentage allowed by law for veterans' preference and percentage allowed for volunteer or reserve preference.

C. Priority of time of examination shall not give any preference in rank on the register.

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

1. The one who qualifies for veterans' preference in accordance with Washington State law. Eligibles on a promotional register do not so qualify.

2. When the examination is composed of two or more parts with separate grades, the one who has:

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

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

3. When the examination has only one part, or the candidates have the same standing under (1) and (2) above:

a. As between examinees who are City employees, the one having the greater service credit with the City within the classified service regardless of class or department;

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

4. By lot.

E. If an applicant is permitted to file for and take an examination for delayed eligibility and if such applicant is successful in the examination, eligibility shall be held in abeyance until the candidate meets the requirements for eligibility, which must be reported in writing. If otherwise eligible, the candidate's name shall be placed on the register in accordance with the final examination grade. Any such eligibility shall expire with that of other eligibles from the same examination.

### 8.03 RETURN TO REGISTER FOLLOWING LAYOFF

On layoff, an employee's name shall be placed upon the proper eligible register for the class, according to the grade, for one year from the date of such layoff.

### 8.05 RETURNING TO ELIGIBLE REGISTER AFTER RESIGNATION OR RETIREMENT.

A. A former employee who resigned or retired may request return of his name to the proper open graded eligible register for the class. Such request must be made within one year from date of resignation or retirement; provided, the Secretary may extend the above time limitation for not to exceed an additional four years upon satisfactory showing that such extension would be in the best interest of the City;

B. Any request for return to register following resignation or retirement must be supported by written recommendation of the former employing department;

C. A former employee whose eligibility is reinstated under this rule shall be certified according to civil service rules. However, the name of such an eligible need be considered only by the department which recommends the return of the name to the register.

D. The name of a former employee who resigned or retired may not be returned to a promotional register, unless recommended by the head of the former employing department and approved by the Civil Service Commission within one year from the date of resignation or retirement.

#### 8.07 APPOINTMENT WITHOUT EXAMINATION.

Except as provided in sections 8.03, 8.05 and 8.09, any return to the Civil Service shall be by examination only. (Revised 10/19/88, 2/15/89)

#### 8.09 ESTABLISHMENT OF REINSTATEMENT REGISTERS.

A. The names of regular employees who have been laid off or, when requested in writing by the appointing authority, probationary employees who have been laid off, shall be placed upon a reinstatement register for the same class and for the department from which laid off, for a period of one year from the date of layoff;

B. Upon the request of an appointing authority, the Secretary may approve the certification of anyone on such a reinstatement register as eligible for appointment on an open competitive basis in the department requesting certification.

C. Anyone on a reinstatement register who becomes a regular employee in another department shall lose reinstatement rights in the former department.

D. Anyone accepting a permanent appointment in the class from which laid off and in a department other than that from which lay off is not to be certified to the former department unless eligibility for that department is restored.

E. Refusal to accept permanent work from a reinstatement register shall terminate all rights granted under this chapter; provided, no one shall lose reinstatement eligibility by refusing to accept appointment in a department other than the one from which laid off.

#### 8.11 DURATION OF ELIGIBLE REGISTERS.

A. If an applicant is permitted a delayed administration of an examination, and is successful in such examination, that applicant's eligibility shall expire with that of other ELIGIBLES from the same examination.

B. In no event shall a register remain in force for longer than 24 months.

C. No register shall remain in effect after promulgation of a register from a subsequent examination, except as provided below:

1. Provided, however, an eligible in the military service of the United States shall be entitled to extended eligibility equivalent to the period to which he was entitled at the time of entering the military service;
2. Provided, written request for extended eligibility is filed with the Civil Service Department within ninety (90) days of termination of active military service.

D. Eligibility upon return of a name to an eligible register following resignation shall be for one year from such return.

E. An employee who accepts a position in another class in the same department, or accepts an appointment in another department, or is laid off, shall retain all earned eligibility for the periods provided for in Rule 14, except that if an appointment is accepted in another department (whether following a layoff or otherwise), continuation of the departmental promotional eligibility for the first department shall be at the option of that department.

#### 8.13 AVAILABILITY OF ELIGIBLES.

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

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

#### 8.15 CANCELLATION OF ELIGIBILITY.

A. Anyone's name may be removed from an eligible register for failure to pass a required examination or upon receipt of proof of material physical or mental disability, bad character or other unfitness, fraudulent conduct, or false statements by the eligible or by others with the eligible's collusion, in connection with any application, examination for, or securing of an appointment. A previous unsatisfactory work record with the City or dismissal from the service, or dismissal from any position, public or private, for any cause which would be a cause for dismissal from City Service shall be deemed cause for cancellation of eligibility;

B. Separation from the service will terminate any promotional eligibility;

C. If an eligible has failed to respond to call, or has refused to accept employment, the appointing authority may request that the Secretary strike the eligible's name from the register

D. Failure to respond to the canvass of a register within fourteen (14) days from such canvass shall be deemed cause to strike the eligible's name from the register;

E. Refusal to accept reemployment in a permanent position shall constitute separation from the service except as provided in Rule 9.07 (e).

F. Such action contemplated by this rule may also be taken for other material reasons.

#### 8.17 RESTORATION OF NAMES TO ELIGIBLE REGISTERS.

The name of an eligible which has been removed from a register may be restored upon written request to the Secretary for such restoration. The request must specify the reasons for the requested restoration. The Secretary may approve the request if it is deemed that the evidence submitted justifies such approval.

### RULE 9. CERTIFICATION AND APPOINTMENT

#### 9.01 GENERAL PROVISIONS.

Vacancies in the classified Civil Service shall be filled by reinstatement, promotional appointment, assignment, open graded appointment, lateral transfer, transfer, reduction, demotion, or in the absence of an appropriate register, the Secretary may authorize a temporary appointment. (Revised January 1, 1988)

#### 9.03 REQUEST FOR CERTIFICATION.

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

#### 9.05 CERTIFICATION.

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

1. Reinstatement
2. Promotional
3. Open Graded or Lateral Entry

B. Order of reinstatement:

1. If a vacancy is to be filled from the reinstatement register, the following shall be the order of certification:

a. Regular employees in the order of their length of service. The regular employee on such register who has the most service credit shall be first reinstated;

b. Probationers, without regard to length of service. The names of all probationers upon the reinstatement register shall be certified together.

2. If a vacancy is to be filled from an open graded register or the lateral entry list, the Secretary shall certify to the appointing authority the names of the available eligibles on the open graded register and the entire lateral entry list. The appointing authority shall have the choice of selecting from either the open graded register or the lateral entry list at their discretion.

3. Nothing in this rule shall prevent the reinstatement of any regular or probationary employee for the purpose of transfer to another department, either for the same class or for voluntary reduction in class, as provided in these rules.

C. If a vacancy is to be filled from a promotional register, the Secretary shall certify to the appointing authority the names of the available eligibles on the appropriate register. If a vacancy is to be filled from an open graded register, the Secretary shall certify to the appointing authority the names of the available eligibles on the appropriate register.

D. If an appointing authority makes an acceptable showing that none of the eligibles certified are available or that they do not respond, a new register shall be called for.

E. Where a certification of eligibles with special experience, training or skills is requested in writing by the appointing authority as being necessary for satisfactory performance in a particular position, and the Secretary determines that the reasons given fully justify the request, a certification may be made of only the highest ranking eligibles who possess the special qualifications. Certification of eligibles of only one sex shall not be made unless there is clear evidence that efficient performance of duties to be assigned could be performed only by the sex specified.

F. If a temporary vacancy is to be filled from an open or a promotional register, those eligibles with three months of service who are shown on the register as having been laid off within the last 12 months from the department in which the vacancy exists shall be placed in grade order at the head of the list of eligibles for certification according to rule.

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

H. Where a certification of eligibles other than in the normal order is requested in writing by the appointing authority as being necessary to implement the Affirmative Action Program of the City by achieving ratios of minority, female or handicapped employees in all classifications of City employment approximately equal to the ratios of these same groups in the community, and the Secretary determines that the reasons given fully justify the request, a certification may be made on only the highest ranking eligibles of minority, female, or handicapped eligibles, as designated in the request.

#### 9.07 DEFERMENT OF CERTIFICATION.

The Secretary may grant deferment of certification of an eligible upon receipt from the eligible of a written request with satisfactory reason therefore. Such deferment will thereafter prevent certification of such eligible until the next vacancy occurring after the eligible has given written notice of his desire to be returned to the register, and such return has been approved by the Secretary.

#### 9.09 DURATION OF CERTIFICATION.

Certification shall be in effect for thirty (30) days from its date of issuance. The appointing authority must file a report of any appointment from such certification with the Secretary. Upon request, the Secretary may extend such certification for additional 30-day periods. Expiration of eligibility shall not cancel the validity of a certification.

#### 9.11 REGULAR APPOINTMENT.

A regular appointment to fill a vacancy must be made from the names contained on the official certification. The Secretary certifies to the Appointing Authority the names of three (3) available eligibles who stand highest on the appropriate register. The official appointment report shall show the name of the person appointed, the effective date, the salary, the nature or duration of the appointment, and any other information required.

#### 9.13 TEMPORARY APPOINTMENT.

Where there is no suitable eligible register from which certification can be made or when the Secretary approves a request from the appointing authority to declare a "Temporary Staffing Emergency," the Secretary may allow the appointing authority to make a temporary appointment.

A temporary appointment may be made in a position for a period of up to six (6) months. An extension may be requested for good cause, but such position may only be temporarily filled for a time not to exceed twelve (12) months. No person shall serve as a temporary appointee for more than one six (6) month appointment in any twelve (12) month period. The time spent as a temporary appointee shall not be credited to any probationary period or be utilized for computing any privilege in regard to placement on registers coming before the Civil Service Commission for certification.

When there is notice that the temporary staffing emergency situation has been resolved or when notice that a proper eligible register for such class is available, the temporary appointment shall not exceed thirty (30) days from date of notice; provided, an extension to the thirty (30) days may be granted by the Secretary upon satisfactory written explanation by the appointing authority that an extension is

necessary and that such extension will not cause that particular temporary appointment to exceed the twelve month limitation, or any temporary appointee to exceed the six (6) month appointment.

## RULE 10. PROBATION

### 10.01 PROBATIONARY PERIOD.

A. After each full-time or part-time permanent appointment from an eligible register, the employee appointed shall serve a complete period of probation before the appointment is deemed complete.

B. If a probationer transfers in the same class from one department to another, the receiving department may, with the approval of the Secretary, require that a complete probationary period be served in that department.

C. A regular employee who has been reduced to a lower class in which he has not had regular standing shall have probationary status in the lower class for 6 months from the date of such reduction.

### 10.03 LENGTH OF PROBATIONARY PERIOD.

The period of probation shall be equivalent to 12 months of full-time service following permanent appointment from an eligible register. Minor absences due to vacations, annual military leave, illnesses, etc., shall not be construed as interrupting the probationary period unless an absence or absences are considered to be excessive to the extent that the Secretary will approve a departmental request for an extension of the probationary period.

### 10.05 INTERRUPTION OF PROBATIONARY PERIOD BY MILITARY SERVICE

A probationer who engages in active military service on an extended basis shall be considered as having an interrupted probationary period. Such employee may continue the probationary period following return from military leave.

### 10.07 SERVICE IN ANOTHER CLASS.

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

### 10.09 PROBATIONARY DISCHARGE OR DEMOTION.

A. The appointing authority, by assigning in writing to the Commission the reasons therefore, may discharge any probationer. Such reasons need not constitute

just cause and shall not otherwise be reviewed by the Commission except as provided in Rule 18.01(b).

B. A probationer may be demoted for inability to perform satisfactorily the duties of the position to which he was appointed, in accordance with Rule 18.03 on demotion; or may be allowed eligibility for another position in the same class, for which he is deemed qualified by the appointing authority, subject to approval by the Commission.

C. A probationer demoted to a class in which he or she has not held regular standing shall start a new period of probation.

## RULE 11. SERVICE CREDIT

### 11.01 REGULAR EMPLOYEE.

Service credit in a class for a regular employee shall be computed to cover all service subsequent to regular appointment to a permanent position in that class and shall be applicable in the department in which employed and specifically as follows:

#### A. General Provisions:

1. After completion of the probationary period, service credit will be given for employment in the same, an equal or higher class, and shall include any temporary or intermittent employment served in the same class under a regular appointment prior to the permanent appointment;

2. Subject to approval by the Secretary, service credit will be given for service in positions exempt from civil service or in positions in other departments;

3. Service credit will be given for previous regular employment of an incumbent in a position which has been reallocated and in which he has been continued with recognized standing;

4. Credit will be given for service prior to an authorized transfer;

5. Credit will be given for time lost during:

a. Jury duty;

b. Disability incurred in line of service;

c. Illness or disability compensated for under any plan authorized and paid for by the City;

d. Service as a representative of a union affecting the welfare of City employees;

e. Service with the armed forces of the United States, including but not limited to exceed twenty-one (21) days prior to entry into active service and not to exceed ninety (90) days after separation from such service;

f. Service with the armed forces during the annual leave for military training.

B. No service credit shall be given;

1. For service of a regular employee in a lower class to which he has been reduced and in which he has not had regular standing, except from the time of such reduction;

2. For any employment prior to a separation from the service other than by a resignation that has been withdrawn as provided by Rule 16.02. (Layoff of a regular employee does not constitute a separation from the service.)

C. Service Credit for Military Service during Probationary Periods. If military service, as specified in Rule 11.05, is during the probationary period, such time shall be credited at straight time after the probationer returns to work and completes the required probationary period.

D. Service Credit for Promotion. Credit as specified in this rule shall be allowed for:

1. Recognized service in all the classes from which promotion is allowed;
2. Service in classified assignments and in higher positions in the same series of classes;

3. Time lost during military service as specified in Rule 12.01a(5)(e);
4. Time lost due to injury or disability incurred on the job;
5. Time spent as a union representative of a union affecting the welfare of City employees.

E. Special Provisions for Service Credit in Layoff. In layoff, credit shall be given as specified in Rule 11.01(1) through (5) inclusive.

F. Service Credit for Salary Increase. Service for salary increases shall be as prescribed by the legislative authority.

## RULE 12. TRANSFER

### 12.01 PROMOTION.

The transfer of an employee shall not constitute a promotion in the service, except as provided in 12.05(4) below.

### 12.03 INTRA-DEPARTMENTAL TRANSFERS.

An appointing authority may transfer an employee from one position to another position in the same class in his department without prior approval of the Secretary but must report any such transfer to the Civil Service Commission within five days of its effective date.

### 12.05 OTHER TRANSFERS.

Other transfer may be made upon consent of the appointing authorities of the department involved and with the Secretary's approval as follows:

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

B. Transfer to another class in the same or a different department in case of injury in line of duty either with the City service or with the armed forces in time of

war, resulting in permanent partial disability, where showing is made that the transferee is capable of satisfactorily performing the duties of the new position;

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

D. Transfer, in lieu of layoff, may be made with limited standing to a single position in another class when such transfer would constitute a promotion or advancement in the service provided a showing is made that the transferee is capable of satisfactorily performing the duties of the position and that a regular employee or probationer is not displaced and when transfer in lieu of layoff under Rule 13.01(3) is not practicable. Regular standing in the new class may be attained by the employee only through examination and permanent regular appointment or prior eligibility in that class.

E. The Secretary may approve a transfer under (A), (B), (C), or (D) above with the consent of the appointing authority of the receiving department only, upon a showing of circumstances justifying such action.

#### 12.07 TRANSFER TO NON CIVIL SERVICE DEPARTMENTS.

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

### RULE 13. LAYOFF

#### 13.01 GIVEN CLASS.

In a given class in a department, the following shall be the order of layoff:

1. Provisional appointees;
2. Temporary or intermittent employees not earning service credit;
3. Probationers (except as their layoff may be affected by military service during probation);
4. Regular employees in the order of their length of service, the one with the least service being laid off first.

#### 13.03 LAYOFF OUT OF ORDER.

The Secretary may grant permission for layoff out of the regular order, upon showing by the appointing authority of the department of a necessity therefore in the interest of efficient operation of his department, after giving any employee or employees affected an opportunity to be heard.

### 13.05 REDUCTION IN LIEU OF LAYOFF.

At the time of any layoff, a regular employee or a promotional probationer shall be given an opportunity to accept reduction to the next lower class in a series of classes in his department, or he may be transferred as provided by Rule 12.05C3), Transfer In Lieu of Layoff. An employee so reduced shall be entitled to credit for any previous regular service in the lower class and to other service credit in accordance with the Service Credit Rule 11.

## RULE 14. LEAVES OF ABSENCE

### 14.01 LEAVES OF ABSENCE.

The department head, with approval of the City Commission, may grant leave without pay to permit an employee an absence from duty. Such leave must be for a bonafide reason, and must not cause undue hardship on the department. Any person who is drafted for active military service shall be placed on leave without pay and will be returned to his former position or a similar position upon return from military service, unless there has been a reduction-in-force. Notice of intent to return must be given the department head within 90 days of discharge. The department head shall notify the secretary within five days of an approval of a leave of absence.

## RULE 15. RESIGNATION

### 15.01 HOW SUBMITTED.

Resignation of any employee from the service shall be made in writing and filed with the Civil Service Commission.

### 15.03 WITHDRAWAL OF RESIGNATION.

The Commission may permit the withdrawal of a resignation only upon a written request filed 30 days from the effective date of the resignation and if such request for withdrawal bears the favorable recommendations of the appointing authority Department Head.

### 15.05 RETURN TO ELIGIBLE REGISTER FOLLOWING RESIGNATION.

(See Rule 9.05).

## RULE 16. DISCIPLINE AND DISCHARGE

### 16.01 SUSPENSION AND DISCHARGE.

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

B. A department head may discharge a subordinate for good cause.

### 16.03 DEMOTION.

A. Demotion of an employee to a lower class for good cause may be made by the department head.

B. An employee so demoted shall lose all rights to the higher class.

C. If the employee has not had previous standing in the lower class, such demotion shall not displace any other regular employee or any probationer. The Secretary shall be satisfied as to the ability of such demoted employee to perform the duties of the lower class and shall require the completion of a probationary period.

### 16.05 DISCIPLINE--GOOD CAUSE--ILLUSTRATED.

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

A. Incompetency, inefficiency, or inattention to or dereliction of duty;

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

C. Mental or physical unfitness for the position that the employee holds;

D. Dishonest, disgraceful, or prejudicial conduct;

E. Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid, or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under civil service;

F. Conviction of a felony, or a misdemeanor involving moral turpitude;

G. False or fraudulent statements or fraudulent conduct by an applicant, examinee, eligible, or employee, or such actions by others with his or her collusion;

H. Willful or intentional violation of any lawful and reasonable regulation, order or direction made or given by a superior officer;

I. Willful or intentional violation of any of the provisions of these rules.

### 16.07 NOTICE-WRITING.

Notice of disciplinary action must be in writing and conveyed to the employee setting forth the reason for the action.

## RULE 17. PREDISCIPLINARY HEARING

### 17.01 PREDISCIPLINARY HEARING--REQUIRED.

A department head shall provide and arrange for a predisciplinary hearing prior to demotion, suspension, or discharge of a subordinate.

### 17.03 PREDISCIPLINARY HEARING--STANDARDS/NOTICE OF DISCIPLINE.

A. An employee shall be provided, in writing, with a notice of the charge and an explanation of the department's evidence. The employee shall be given an opportunity to respond to the charges, orally or in writing, as to why the department's proposed action should not be taken.

B. The employee may have legal counsel or union representation present at a predisciplinary hearing.

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

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

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

### 17.05 TIME OF HEARING.

A predisciplinary hearing may be scheduled any time before the employee has been given his official notice of discipline or discharge. The hearing need not be formal.

## RULE 18. HEARINGS

### 18.01 HEARINGS--APPEALS.

A. Any regular employee who is demoted, suspended or terminated may appeal such action to the Commission.

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

C. Any employee, or department, who is adversely affected by an alleged violation of Civil Service rules may appeal such violation to the Commission.

### 18.03 APPEALS--TIME--FORM.

A notice of appeal shall be filed with the Commission within ten (10) days of the action that is the subject of the appeal. The notice of appeal shall be in writing and include the mailing address and street address where service of process and other papers may be served upon the appellant. The notice of appeal shall also contain a

brief description of the facts giving rise to the appeal, and a concise statement of the reason for the appeal.

#### 18.05 EXHAUSTION OF ADMINISTRATIVE REMEDIES.

A. The Secretary may, when not inconsistent with the terms of a collective bargaining agreement, direct the employee to exhaust available administrative procedures regarding a disciplinary matter, before hearing the matter.

B. If the employee exhausts all available administrative procedures and continues to believe that good cause has not been shown, the employee may within ten (10) days after the final step of the procedure, request the Secretary to return the appeal to the commission for hearing.

#### 18.07 AUTHORITY OF SECRETARY/CHIEF EXAMINER/STAFF.

A. The Secretary/Chief Examiner to the Commission shall have the authority to make orders of preliminary matters, including motions for discovery and to compel discovery, continuance, protective orders, and other similar matters. Such orders may be appealed to the Commission. The Secretary/Chief Examiner may also conduct pre-hearing settlement conferences in order to encourage resolution of contested matters, issue subpoenas, and take depositions.

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

C. As an aid to investigations authorized by the Commission, the Secretary/Chief Examiner may subpoena any documents that would be discovered for purposes of hearing preparation and may take depositions by tape recorder of any person who may have relevant knowledge. Depositions so taken shall be kept as part of the records of the Commission.

#### 18.09 APPEALS--INITIAL REVIEW.

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

### 18.11 APPEALS--NOTICE OF HEARING.

Upon receipt of a notice of appeal, the Commission shall forward a copy of the notice to other affected parties. As soon as possible thereafter, but in any event within ten (10) days, a hearing before the Commission shall be set, with each party to be afforded not less than twenty (20) days notice of such hearing. Subsequent hearings on the same appeal shall have one week's notice unless waived by the parties. All parties may agree to waive the notice provisions and time limits provided by this Section.

### 18.13 APPEALS--AUTHORITY OF DEPARTMENT.

The exercise of jurisdiction by the Commission over a matter does not preclude the party from withdrawing, modifying or otherwise compromising the matter prior to the matter going to hearing. Upon resolution of a matter prior to hearing, any party may request the dismissal of the matter. A stipulation signed by both parties should be submitted to the Commission prior to such dismissal.

### 18.15 SERVICE OF PROCESS--PAPERS.

A. The Commission staff shall cause to be served all orders, notices, and other papers issued by the Commission, together with any other papers that the Commission is required by these rules to serve. Every other paper shall be served by the party filing the notice, document, or paper.

B. All notices, documents, or papers served by either the Commission or a party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers shall be by personal service, by registered or certified mail, or by regular mail with written acknowledgment of such mailing attached to the papers so served. Written acknowledgment shall be by affidavit of the person who mailed the papers, or by certificate of any attorney or Secretary/Chief Examiner.

C. Service upon parties shall be regarded as complete when personal service has been accomplished or by mail upon deposit in the mail properly stamped and addressed.

D. Papers required to be filed with the Commission shall be deemed filed upon actual receipt of the papers by the Commission staff at the Commission office. All papers except the original appeal notice shall be served with the original and three copies. Briefs and memorandums must be filed with the Commission at least three (3) days prior to any hearing involving matters discussed in said brief or memorandum. Documentary evidence is not required to be filed but, rather, provided at the hearing.

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

### 18.17 DISCOVERY.

A. Parties to a proceeding are required to provide to each other reasonable access and discovery to all relevant information concerning the matter before the Commission. Any questions concerning relevancy or access shall be resolved by order of the Secretary.

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

### 18.19 SUBPOENAS.

A. Every subpoena shall identify the Commission and the title of the proceedings, if any, and shall command the person to whom it is directed to attend, at a specified time and place, and give testimony or produce designated books, documents, or things under that person's control.

B. Upon application of any party or his/her representative, the Secretary shall issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The party requesting the subpoena is responsible for having said subpoena properly served. Such requests for subpoenas shall be submitted to the Commission offices at least three (3) days prior to the hearing.

C. Service of subpoena shall be made by serving a copy of the subpoena on the person named therein.

D. The person serving the subpoena shall make proof of service by filing the subpoena at the Commission office; and if such service has not been acknowledged by the witness, the person serving the subpoena shall make an affidavit of service. Failure to file proof of service does not affect the validity of service.

E. Upon a motion promptly made by a party or by the person to whom the subpoena is directed, and upon notice to the party on whose behalf the subpoena was issued, the Commission may:

1. Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or
2. Condition denied of a motion to quash or modify upon just and reasonable conditions.

### 18.21 BURDEN OF PROOF.

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

### 18.23 EVIDENCE.

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

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

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

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

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

### 18.25 DELIBERATION.

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

### 18.27 DECISION.

In any appeal, the Commission shall issue a decision, including finds of fact, conclusions of law, and an order, to each party or counsel of record for each party. A decision shall be issued within ten (10) days of the close of the hearing of an appeal or other proceeding heard only by the Commission. Absent the consent of an appellant to an extension of time, failure to issue a decision within the time prescribed shall result in an appeal being sustained.

18.29 REMEDIES.

The Commission may issue such remedial order as deemed appropriate.

18.31 RECONSIDERATION.

A party may move for reconsideration by the Commission only on the basis of fraud, mistake, or misconception of facts. Such motion must be filed with the Commission within ten (10) days of the decision of the Commission. Such motion for reconsideration shall be decided on affidavits, absent special showing that testimony is necessary.

18.33 WAIVER.

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

RULE 19. RETIREMENT AND DISABILITY

19.01 RETIREMENT.

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

19.03 REINSTATEMENT AFTER DISABILITY RETIREMENT.

A. The Secretary shall review any report from a retirement system showing that a former employee who is on disability retirement has regained his health to the extent employable.

1. Upon being satisfied that the employee is physically and mentally competent to perform the duties of the regular class, the Secretary shall:

a. Order return of the employee to former employment status as if a leave of absence had been granted; or

b. Place the name on the reinstatement register for an available class and department.

2. The name of an employee who is employable but not fully recovered shall be placed on the most advantageous reinstatement register for the same department, for an equivalent or lower class comprised of duties the employee is competent to perform, as determined by the Secretary;

3. If such an employee's name is placed on a reinstatement register, service credit acquired previous to retirement shall be continued. The employee shall be reinstated from such register and transferred or reduced in grade according to rules. Eligibility rights shall not expire as prescribed in case of layoff.

B. Any reinstatement in a class other than that in which last employed shall not result in a promotion.

C. The provisions of this rule shall not apply in the event an employee is discharged from the service and concurrently given a disability retirement.

## RULE 20. AFFIRMATIVE ACTION

### 20.01 ADOPTION

The Affirmative Action Plan adopted by the City Commission shall apply and be the official plan of the Civil Service Commission.

### DEFINITIONS

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

**ACTING PROMOTIONAL APPOINTMENT:** An appointment made from within the service to a supervisory or managerial position temporarily vacated by a permanent employee, not to exceed 120 calendar days.

**ACTUAL SERVICE:** Time in which a given employee has been engaged under civil service appointment in the performance of the duties of a position or positions and shall include absences without pay.

**ALLIED REGISTER:** A register for a class for which the duties and minimum or desirable qualifications are equivalent to or above those for another class.

**ALLOCATION:** The assignment of a position to a job.

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

**APPOINTING AUTHORITY:** (A person who is authorized to employ others on behalf of the City, which means: (1) the Fire Chief with respect to any Fire Department position included in this system, or (2) the Chief of Police with respect to any Police Department position included in this system.)

**APPOINTMENT--REGULAR:** The appointment of a certified eligible.

**APPOINTMENT—TEMPORARY:** An appointment other than from an eligible register for the purpose of performing short term work belonging in the classified service. A reduction of a regular employee is not a temporary appointment.

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

**BREAK IN SERVICE:** A separation from civil service status with a loss of accumulated service credit as occasioned by a "quit," "resignation," "discharge," or "service retirement."

**BUMPING:** The replacement of an employee by another employee subject to reduction-in force, who has greater seniority.

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

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

**CITY:** The City of Shelton.

**CLASS:** A group of positions designated by the Commission as having similarity in duties and responsibilities, by reason of which the same examination may be used for each position in the group.

**CLASS SERIES:** Two or more classes which are similar as to line of work but which differ as to degree of responsibility and difficulty and which has been arranged in a ladder of steps in a normal line of promotion, such as (Police Officer, Police Sergeant, Police Lieutenant).

**CLASS SPECIFICATION:** A description of the essential characteristics of a class and the factors and conditions that separate it from other classes, written in terms of duties, responsibilities and qualifications.

**CLASSIFICATION:** Identification of positions, or groups of positions, sufficiently similar in duties so that the same requirements of training, experience or skill and the same title, examination and salary range may be applied.

**CLASSIFIED SERVICE:** All positions in the City Service subject to the provisions of these rules.

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

**COMPETITIVE SERVICE:** All positions in the classified service for which a competitive examination is required as a condition for appointment.

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

**DEMOTION:** A change of a permanent employee from a position in one class to a position in a lower class having lesser entrance salary.

**DEPARTMENT HEAD:** The head of the police or fire department, or appointing authority.

**DISCHARGE:** Termination, separation, dismissal, or removal from service for cause.

**DISMISSAL:** The termination of an individual's employment for cause as specified in these rules.

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

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

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

**EMPLOYEE:** Anyone holding a position in the Civil Service System of the City of Shelton.

**EMPLOYEE--REGULAR:** Any employee who has been appointed from a certification and who has satisfactorily served the full probationary period.

**EMPLOYEE TEMPORARY:** Any employee appointed to fill an emergency, temporary or short-term need, or to fill a position for which no register is available

**EMPLOYEE--EXEMPT:** Any employee in a position of employment which is not subject to Civil Service rules and regulations, and in which one serves at the discretion of the appointing authority.

**EMPLOYEE--PROBATIONARY:** Any person appointed from a certification who has not yet completed 12 months, (insert applicable period) of employment.

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

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

**EXAMINATION--PROMOTIONAL:** An examination limited to employees meeting the requirements stated in the official bulletin announcing such examination.

**LAYOFF:** The interruption of service and pay of any regular or temporary employee because of lack of work or funds, except that the term shall also apply to the separation of temporary employees who have completed the stipulated period of employment.

**LEOFF:** Shall refer to Washington State Law Enforcement Officers and Firefighters. (Revised 2/15/89)

**MINIMUM QUALIFICATIONS:** The training, experience, and other qualifications established for admission of an applicant to the examination for a given class.

**OFFICIAL BULLETIN:** The examination announcement containing basic information about the class of positions, the requirements for filing, how to apply, and the other pertinent information which is posted in the Commission's office and in other suitable locations.

**OFFICIAL NEWSPAPER:** The newspaper designated as official by the Shelton City Commission, or as otherwise designated by the Commission.

**PERMANENT EMPLOYEE:** An employee who has successfully completed a probationary period and has had no break in service.

**PERSONAL PRONOUN:** The personal pronoun of the masculine gender shall apply equally to the female gender when appropriate.

**POSITION:** Any group of duties and responsibilities in the service of the City of Shelton which one person is required to perform on a full- or part-time employment.

**POSITION—PERMANENT:** A position included in the official annual budget that is neither specified as seasonal employment, nor limited for a period of less than the budget year; also any such position established during a given budget year, unless the appointing authority certifies to the Civil Service Commission that such position will not be continued in the succeeding year's budget.

**POSITION--PERMANENT PART-TIME:** Employment in a permanent position for work on a basis of less than eight hours a day or less than forty hours a week, but on a regular schedule.

**PROBATION OR PROBATIONARY:** The status of an employee during a trial period following a permanent appointment from an eligible register. This trial period is part of the examination process and is a working test during which an employee is required to demonstrate, by actual performance of the duties, fitness for the position to which certified and appointed.

**PROBATIONARY PERIOD:** The period of employment beginning with the date of original appointment or reemployment, into the classified service and continuing for one year.

**PROMOTIONS:** A change of a permanent employee from a position in one class to a position in a higher class having higher entrance salary.

**QUIT:** Any voluntary separation of an employee from the Fire or Police service without acceptance of a resignation by the appointing authority.

**REDUCTION:** a. Placement of an employee's salary at a lower step within the range as a result of a disciplinary action.

b. The removal of an employee from a higher class to a lower class of employment for reasons other than cause.

**REDUCTION-IN-FORCE:** A separation from service because of a lack of funds and/or work and without cause on the part of the employee.

**REEMPLOYMENT :** An appointment, made from the reemployment register, of a former employee who (1) had permanent status in a class and (2) whose requested reemployment has been approved by the Civil Service Commission.

**REGISTER:** A list of candidates for employment who have passed an employment examination, whose names may be chosen and certified by the Commission for submission to the appointing authority for consideration for employment. See 4.22, "Eligible Register."

**REINSTATEMENT:** Reappointment of a regular employee to a position in a class in which he was a regular employee.

**REINSTATEMENT REGISTER:** A list of names of persons who were regular employees in a given class and who were laid off and are entitled to reinstatement in such class. A reinstatement register may also include former

employees on disability retirement who are capable mentally and physically for reinstatement.

**RESIGNATION:** A written request by an employee for separation from a class or from the classified service.

**REVERSION:** Voluntary or involuntary movement of an employee during a six-months trial service period to the lower class which he held prior to his last promotion.

**SECRETARY:** Secretary and Chief Examiner as defined in Chapter 3.

**SENIORITY:** Seniority shall be determined by the date of initial continuous employment. The date of initial employment shall be the date of the beginning of the pay period in which the employee begins his employment. In the event more than one employee has the same date of employment the person with the higher score on the Civil Service examination shall have seniority over employees having lower scores on the same dated examination.

**STANDING--REGULAR:** The full civil service status of a regular employee.

**SUPERVISOR:** Any individual having substantial responsibility on behalf of management regularly to participate in the performance of all or most of the following functions: employ, promote, transfer, suspend, discharge or adjudicate grievances of other employees, if in connection with the foregoing, the exercise of such responsibility is not a merely routine nature, but requires the exercise of independent judgment.

**SUSPENSION:** Temporary removal of an employee from employment with or without pay, for cause, or pending determination of charges against the employee which could result in demotion or discharge.

**TEMPORARY APPOINTMENT:** Non-permanent assignment normally lasting less than six months, when possible, and having an end in sight.

**TEMPORARY STAFFING EMERGENCY:** A situation where it is necessary in the judgment of the Civil Service Secretary/Examiner or Civil Service Commission to make a non-permanent assignment due to the absence of a permanent employee on leave or for a similar circumstance which creates the need for an interim assignment, or to accomplish the additional work created by a short term special project or to accommodate a cyclical increase in work on a short term basis; such emergency normally lasting less than six months, when possible, and having an end in sight.

**TIME-IN-GRADE:** The time served in a classification or rank determined by the Date of promotion to the classification, provided the trial service period was completed.

**TRANSFER:** The change of a permanent employee, with no break in service, from one to another classified position having an identical salary range.

**TRIAL SERVICE PERIOD:** A six-month trial period of employment of a permanent employee service, as provided and defined by applicable laws.

**VETERANS' PREFERENCE:** Preference in examinations and employment based on military service, as provided and defined by applicable laws.

**VOLUNTEER AND RESERVE PREFERENCE:** Preference in examination and employment will be based upon past experience, i.e. years served, training received, drills attended, fire ground or patrol experience and ability profile.