CITY OF BATTLE GROUND
CIVIL SERVICE RULES

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Table of Contents

CHAPTER 1 – GENERAL PROVISIONS 2

CHAPTER 2 – ADMINISTRATION AND OPERATIONS 2

CHAPTER 3 – CIVIL SERVICE EXAMINER-SECRETARY 5

CHAPTER 4 – DEFINITIONS 7

CHAPTER 5 – RULE-MAKING 12

CHAPTER 6 – CLASSIFICATION 12

CHAPTER 7 – APPLICATIONS AND APPLICANTS 14

CHAPTER 8 – EXAMINATIONS 19

CHAPTER 9 – LISTS AND ELIGIBILITY 24

CHAPTER 10 – CERTIFICATION AND APPOINTMENT 29

CHAPTER 11 – PROBATION 32

CHAPTER 12 – SERVICE CREDIT 34

CHAPTER 13 – TRANSFER – REDUCTION 38

CHAPTER 14 – LAYOFF 41

CHAPTER 15 – LEAVES OF ABSENCE 42

CHAPTER 16 – RESIGNATION 43

CHAPTER 17 – DISCIPLINE AND DISCHARGE 44

CHAPTER 18 – PREDISCIPLINARY HEARING 46

CHAPTER 19 – HEARINGS 47

CHAPTER 20 – RETIREMENT AND DISABILITY 52

CHAPTER 21 – MISCELLANEOUS 53

CHAPTER 1 – GENERAL PROVISIONS

1.01 AUTHORITY AND APPLICATION.

These rules are promulgated pursuant to the authority granted by RCW Chapter 41.12. These rules are applicable to proceedings before the Civil Service Commission and should be read in conjunction with the specific provisions of RCW Chapter 41.12, and the enabling ordinance providing for the civil service.

1.02 SCOPE AND PURPOSE.

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

1.03 PRESUMPTION OF VALIDITY.

The Civil Service System implemented by these rules substantially accomplishes the purposes of RCW Chapter 41.12. Variation from state models are based on local conditions and are intended to maintain the purposes of civil service systems: merit selection, tenure and an independent Civil Service Commission. These rules are presumed to be valid and shall be upheld unless in direct conflict with the purposes of RCW Chapter 41.12.

CHAPTER 2 – ADMINISTRATION AND OPERATIONS

2.01 MEMBERSHIP.

The members of the Civil Service Commission shall serve without compensation. Each must be a citizen of the United States and a resident of the City of Battle Ground for at least three (3) years immediately preceding such appointment and must be a qualified elector of Clark County. The City Manager, pursuant to RCW 41.12.030, appoints three members.

2.02 TERM OF OFFICE.

If any Civil Service Commissioner resigns before the end of his or her term, a new Commissioner shall be appointed to serve the remainder of such term. Members may be re-appointed. The term of office shall be for six (6) years.

2.03 QUORUM.

Two members of the Commission shall constitute a quorum. The votes of any two members of such Commission concurring shall be sufficient for the decision of all matters and the transaction

of all business to be decided or transacted by the Commission. Votes ending in a tie are presumed to fail.

2.04 ORGANIZATION.

2.04.01 CHAIR. The position of Chair shall rotate every two years between the Commissioners in order of position number. The Commission functions under applicable statutes and consistent with the rules herein or hereinafter adopted. These rules are promulgated pursuant to RCW 41.12.030 and apply to the civil service system for the police department. Should the Chair resign or be removed from the position prior to the expiration of his/her term, the Vice-Chair shall be appointed to the position of Chair to serve the remaining term.

2.04.02 VICE-CHAIR. The Vice-Chair shall be the member who will serve as the next Chair. In the absence of the Chair, the Vice-Chair shall preside over the meeting.

2.05 POWERS AND DUTIES.

The Civil Service Commission shall:

2.05.01 Convene regular meetings or special meetings as needed.

2.05.02 Adopt rules and regulations not inconsistent with Washington State Law for regulations of personnel administration within the classified services.

2.05.03 Appoint a Civil Service Examiner-Secretary in conformity with RCW 41.12.040 and the rules herein.

2.05.04 Maintain minutes of meetings and records of proceedings and actions.

2.05.05 Provide for the holding of competitive tests under the supervision of the Secretary to determine the relative qualifications of persons for employment in the classified services, and prepare lists of eligible candidates for vacancies and certify same.

2.05.06 Assure that employees are selected or promoted from lists provided by the Commission.

2.05.07 Hear and determine appeals arising from the administration of Chapter 41.12 RCW, and these rules and regulations.

2.05.08 Investigate and report on all matters relating to the enforcement and effect

of Chapter 41.12 RCW, and those rules and regulations.

2.05.09 Exercise such powers and duties as are imposed upon the Commission by Chapter 41.12 RCW.

2.06 MEETINGS.

In the necessary conduct of its work, the Commission shall meet monthly unless there is no pending business requiring Commission action. Special meetings of the Commission may be held at such times and places as may be determined from time to time by the Commission, provided that the determination to hold the special meeting, and the specific agenda items are the only matters which shall be acted upon by the Commission at such special meetings. All activities of the Commission shall be conducted in a manner which is in compliance with the Open Public Meetings Act, as amended, by the State of Washington, Chapter 42.30 RCW. All Commission meetings or hearings, regular or as required, shall be open to the public provided, however, that the Commission may meet in Executive Session as authorized by the Open Public Meetings Act (RCW 42.30.140 (1) and (2)).

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. However, with the concurrence of two Commissioners such rules may be waived or modified. In quasi-judicial proceedings, the Commission shall be guided, but not bound by, the Civil Rules for Superior Court.

2.08 COMMISSIONERS – CHALLENGE.

Any challenge to Commissioner participation at a hearing shall be made by an interested party prior to the commencement of a hearing. The unchallenged Commissioners shall review and rule on the challenge prior to proceeding with the hearing. Failure to timely raise a challenge shall constitute a waiver of the challenge by the party unless, in the exercise of reasonable diligence, a basis for challenge is unknown by a party prior to commencement of a hearing.

2.09 COMMISSIONERS – CHALLENGE – NECESSITY.

If, as a result of disqualification(s) pursuant to Rule 2.08, there is no longer a lawfully constituted quorum available, then by reason of necessity, the Commission would allow for a temporary appointment to be made for that hearing.

2.10 COMMISSION ADDRESS AND OFFICE HOURS.

The office and address of the Civil Service Commission is the City of Battle Ground Human Resources Department, 109 SW 1st Street, Suite 221, Battle Ground, WA 98604. The regular office hours of the Civil Service Examiner-Secretary shall be 8:00 a.m. to 5:00 p.m., Monday through

Friday.

2.11 PUBLIC RECORDS.

Public records of the Commission shall be available for inspection and copying during the regular office hours of the Commission staff.

No fee will be charged for inspection of public records. Inspection will be permitted during office hours in a space provided by the Commission staff, and under its supervision, and must be accomplished without excessive interference with the essential functions of the Commission. Copies will be made available at actual cost or as provided by City ordinance.

2.12 RECORD OF PROCEEDINGS.

The Commission shall keep a record of its proceedings. The record of the Commission will 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, of a prevailing party, at the discretion of the reviewing court or the Commission. Upon appeal or review, transcription and certification of a record or proceedings shall be arranged by the Civil Service Examiner-Secretary.

2.13 REPORTS – CHIEF OF POLICE.

The Chief of Police shall immediately report to the Civil Service Examiner-Secretary in such detail and on such forms as the Civil Service Examiner-Secretary may prescribe:

2.13.01 Every appointment, transfer, promotion, demotion, reduction, layoff, reinstatement, suspension, leave of absence without pay, return to duty, change of title, change of compensation;

2.13.02 Every separation from service with the reasons therefore;

2.13.03 Every refusal or failure to accept appointment by a person whose name has been certified.

CHAPTER 3 – CIVIL SERVICE EXAMINER-SECRETARY

3.01 CIVIL SERVICE EXAMINER-SECRETARY – APPOINTMENT.

A Civil Service Examiner-Secretary (hereinafter, "Secretary") shall be selected by the City Manager. The selection is subject final approval via a vote to appoint by the Commission pursuant to RCW 41.12.040.

3.02 SECRETARY – DISCIPLINE.

The Secretary may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the classified service.

3.03 SECRETARY – AUTHORITY.

In addition to acting as Secretary of the Commission, the Secretary shall:

3.03.01 Be the general manager and executive officer of the Civil Service Department, responsible to the Commission, and shall direct the activities of all personnel in the Civil Service Department, (hereinafter, "Department"), including their appointments and removals;

3.03.02 Delegate duties where necessary and supervise the work of all persons employed in the Department, including the preparation, conduct, and scoring of examinations, and maintenance of the classification plan;

3.03.03 Report to the Commission from time to time as directed concerning the details of the work of the Department;

3.03.04 Prepare the Civil Service budget for the Department, approve accounts, and administer expenditure of funds appropriated for the operation of the Department;

3.03.05 Classify all Civil Service positions in the classified service, maintain a schematic list of all such classes in the classification plan, and prepare and maintain specifications for each class;

3.03.06 Determine which examinations shall be conducted, the minimum qualifications of applicants, the subjects to be covered in each examination, methods of testing, and the relative weights to be given to the various parts of the examination; supervise the conduct of the examinations, appointing such experts, special examiners, and other persons he or she may deem necessary; decide all questions relating to the eligibility of applicants, the admissibility of applicants to the examinations, extension of time and all questions arising during the course of an examination; prepare and submit a report prior to and after each examination to the Commission, together with a report on all appeals from rulings or appeals from any part of the examination; and [Note: see Rule 8.01, "Ordering Examinations."]

3.03.07 Perform all other functions necessary for the proper carrying out of these rules and the provisions of law relating to the Civil Service System, and such

additional duties as may be assigned to the Secretary from time to time by the Commission.

3.04 REVIEW OF AND APPEAL FROM ACTIONS OR DECISIONS OF THE SECRETARY.

3.04.01 The Commission on its own motion may review or modify any action or decision of the Secretary.

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

CHAPTER 4 – DEFINITIONS

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

4.01 ACTUAL SERVICE. Time in which a given employee has been engaged under Civil Service appointment in the performance of the duties of a position or positions and shall include absences with pay.

4.02 ALLOCATION. The locating or placing in the classified service of a position in the class appropriate to it on the basis of duties and responsibilities and required qualifications of such position.

4.03 APPLICANT. Anyone who has filed an application to take a Civil Service examination.

4.04 APPOINTING AUTHORITY. The person or persons authorized to hire, promote or discharge employees. The Chief of Police shall be the appointing authority for appointments and removals for all positions within the Police Department, except their own. The City Manager shall be the appointing authority in the case of an appointment or removal of the Chief of Police.

4.05 APPOINTMENT

4.05.01 APPOINTMENT – REGULAR. The appointment of a certified eligible.

4.05.02 APPOINTMENT – PROVISIONAL. A limited appointment of (a) certified [or non-certified] person to a classified position which is not vacant, but is currently unfilled due to an authorized leave of absence; or (b) a non-certified person to a classified position for which there is no current eligible roster.

4.05.03 APPOINTMENT – TEMPORARY. A limited appointment other than from an eligible list for the purpose of performing work belonging in the classified service. A reduction of a regular employee is not a temporary appointment. Temporary appointment includes emergency appointment.

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

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

4.08 CANDIDATE. Any applicant who has completed, or is in the process of completing, a Civil Service examination.

4.09 CAUSE. Cause shall mean good, sufficient or just cause as determined by the Commission; exercised by the appointing authority in good faith and without discrimination on the basis of religion, politics or other protected classification; and, in consideration of the total context of a disciplinary action, including procedural fairness and consideration of an employee's work record.

4.10 CERTIFICATION. [Certified Eligibility List] A list of names from an eligibility list transmitted by the Civil Service Commission to an appointing authority from which such appointing authority may fill a vacancy.

4.11 CERTIFY. Verification 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.

4.12 CITY. The City of Battle Ground.

4.13 CIVIL SERVICE EMPLOYEE. Any employee who has Civil Service status.

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

4.15 CLASS SERIES. Two or more classes which are similar as to line of work, but which differ as to degree of responsibility and difficulty and which have been arranged in a ladder of steps in a normal line of promotion, such as [Police Officer, Police Sergeant, Police Lieutenant].

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

4.17 COMMISSION. The Civil Service Commission. "Commissioner" means any one member of the Commission.

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

4.19 DEMOTION. Removal of an employee, for cause, from a higher to a lower class of employment or salary step within a class.

4.20 DEPARTMENT. Any department of the City subject to Civil Service as established by ordinance. The legal head of any such department is the "Department Head" or Department Head's designee.

4.21 DISCHARGE. Termination, separation, dismissal, or removal from the service for cause.

4.22 ELIGIBLE. Anyone qualified for a given class through examination and is placed on the proper eligibility list; also, "Certified list."

4.23 ELIGIBILITY LIST. 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 and from which certification may be made to fill vacancies in such class.

4.24 EMPLOYEE. Anyone holding a position in the Civil Service System of the City.

4.24.01 EMPLOYEE – REGULAR. Any employee who has been appointed from a certification and who has satisfactorily served the full probationary period.

4.24.02 EMPLOYEE – TEMPORARY. Any employee appointed to fill an emergency, temporary or short-term need [or to fill a position for which no list is available].

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

4.24.04 EMPLOYEE – PROBATIONARY. A person appointed from a certification who has not yet completed the specified trial period of employment.

4.24.05 EMPLOYEE – PROVISIONAL. Any employee appointed provisionally to a position.

Note: A regular employee is the only employee with rights under Rule 19.01.

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

a. EXAMINATION – OPEN [or ENTRANCE]. An examination open to any member of the public meeting the requirements as stated in the official job posting.

b. EXAMINATION – PROMOTIONAL. An examination limited to employees meeting the requirements stated in the official examination bulletin.

4.26 EXAMINATION BULLETIN - PROMOTIONAL. An examination announcement containing basic information about the class of position, the requirements for filing, how to apply, and the other pertinent information. The examination announcement shall be sent out via email to all members of the Police Department and will be posted in the Police Department breakroom and on the patrol room bulletin board.

4.27 FINAL EXAMINATION SCORE. Total of earned exam score plus additional veteran's preference or service credit points for which an applicant is eligible.

4.28 IN-HOUSE LIST. A list of the names of civil service employees, in the order of final examination rating, who have passed an examination for an entrance position or class.

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

4.30 OFFICIAL NEWSPAPER. The newspaper designated as official by the City, or as otherwise designated by the Commission.

4.31 POSITION. Any group of duties and responsibilities in the service of the City which one person is required to perform as full-time employment, and which is included in the City budget.

4.32 PROBATION OR PROBATIONARY. The status of an employee during a trial period following a permanent appointment from an eligible list. 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.

4.33 PROMOTION. The appointment of an employee to a higher class or to a position of higher skill or responsibility level. Any change in employment other than by a temporary or provisional appointment (1) from a lower class to any position in any higher class in the same provisional series of classes as determined by the Commission, or (2) to a position which although an entrance position is of higher skill and/or responsibility, shall constitute a promotion.

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

4.35 REALLOCATION. The allocation of a position to a different class in the Classification Plan.

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

4.37 REINSTATEMENT. Reappointment of a regular employee to a position in a class in which the employee was a regular employee.

4.38 REINSTATEMENT LIST. 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 list may also include former employees on disability retirement who are capable mentally and physically for reinstatement.

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

4.40 RETENTION CREDIT. The employee's service credit in a given class or position and any higher position in a series or any other credit used by the Commission to determine order of lay-off.

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

4.42 SECRETARY. Civil Service Examiner-Secretary as defined in Chapter 3.

4.43 STANDING – REGULAR. The full Civil Service status of a regular employee.

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

4.45 UNCLASSIFIED SERVICE. The positions in the City that are not subject to civil service and are identified as exempt positions, assignment levels, or other position authorized by law.

4.46 VETERAN'S PREFERENCE. Preference in examinations and employment, based on military service, as provided and defined by applicable laws.

CHAPTER 5 – RULE-MAKING

5.01 AMENDMENTS OF RULES.

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

5.02 EFFECTIVE DATE OF RULES.

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

5.03 COPIES OF RULES.

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

5.04 EFFECT OF RULES.

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

CHAPTER 6 – CLASSIFICATION

6.01 CLASSIFICATION PLAN.

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

6.02 ADMINISTRATION OF POSITION CLASSIFICATION.

The Secretary will make, or cause to be made, position classification studies of individual positions or groups of positions whenever it is deemed necessary; whenever the duties or responsibilities of existing positions have undergone significant changes; whenever notification is received that new positions are to be established by the City Council; or upon request of an appointing authority or an affected employee if title classification of such position has not been reviewed within the last 12 months.

6.03 CLASSIFICATION OF POSITIONS.

6.03.01 Each position in the classified service shall be classified at the direction of the Secretary and allocated to its appropriate class in accordance with the character, difficulty, and responsibility of its designated duties. Positions shall be allocated to a given class when:

a. The same descriptive title may be used to designate each position in the class;

b. The same level of education, experience, knowledge, ability, and other qualifications may be required of incumbents; and

c. Similar tests may be used to select incumbents.

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

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

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

specification, as determining that a position should be included within a class.

6.04 EFFECT OF CLASSIFICATION CHANGES ON INCUMBENT.

6.04.01 Whenever the title of a class is changed without a change in duties or responsibilities, the incumbent shall have the same status in the retitled class as held in the former class.

6.04.02 Whenever a position is reclassified from one class to a higher class, the incumbent shall not continue in the same position, except temporarily, without gaining eligibility for the new class by examination and receipt of an appointment in accordance with these rules.

6.04.03 Whenever a position is reclassified from one class to a lower class, the regular incumbent may, with the concurrence of the appointing authority and the Commission, elect to take a voluntary reduction to the lower class or, at the employee's option and with the concurrence of the appointing authority and the Commission, may remain in the reclassified position for a temporary period as limited by the Commission only until transfer can be made to another position in the class in which the employee has regular standing.

6.05 POSITIONS EXEMPT FROM CIVIL SERVICE.

Chief of Police
Administrative Assistant to the Chief of Police

CHAPTER 7 – APPLICATIONS AND APPLICANTS

7.01 GENERAL REQUIREMENTS FOR FILING APPLICATIONS.

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

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

a. Meet the requirements specified in these rules and in the job posting or official examination bulletin as of the closing day of the official filing period;

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

7.01.03 Time for filing applications:

a. All applications for examination shall be filed within the time limit fixed in the official announcement of the examination. Applications must be received on or before the closing date and time.

b. The time for filing applications may be extended by the Secretary as the needs of the service require.

7.01.04 ENTRY LEVEL POLICE OFFICER APPLICANTS:
Prior to completion of an application, those interested in applying as entry level must go through Public Safety Testing. Upon receipt of the Public Safety Testing score the Secretary shall add the written score to the active Entry Level Public Safety Testing List. The list will be maintained from the highest score to the lowest score received.

7.01.05 ACADEMY GRADUATE POLICE OFFICER APPLICANTS:
Positions may be filled by the use of academy graduate level applicants who have attended the law enforcement academy and have been hired another agency. The minimum qualifications for academy graduate level applicants into the Battle Ground Police Department are as follows:

a. Applicant must be a graduate of the Washington State Criminal Justice Training Commission (WSCJTC) Basic Law Enforcement Academy; OR

b. A trainee currently attending the WSCJTC Basic Law Enforcement Academy who has successfully completed the Academy mid-term examination and is scheduled for graduation from the Academy within 60 days of applying.

c. Applicants must meet all eligibility requirements to attend the WSCJTC Basic Law Enforcement Equivalency Academy (BLEEA),

if applicable.

7.01.06 LATERAL POLICE OFFICER APPLICANTS:
Positions may be filled by the use of lateral applicants from other law enforcement agencies. The minimum qualifications for lateral applicants into the Battle Ground Police Department are as follows:

a. Applicant shall have successfully completed an approved basic law enforcement academy within the state where they served and served as a Commissioned Law Enforcement Officer for at least two years.

b. Applicants must meet all eligibility requirements to attend the WSCJTC Basic Law Enforcement Equivalency Academy (BLEEA), if applicable.

7.01.07 NON-COMMISSIONED POSITIONS
Applicants must apply through the City's website by the closing date and time listed on the job posting.

7.02 PROMOTIONAL EXAMINATIONS.

7.02.01 An application shall be accepted from any regularly appointed employee in the classes from which promotion is allowed who, in addition to meeting the requirements of Rule 7.01.01, has the required service credit designated in the official bulletin and promotional eligibility as defined below:

a. Police Sergeant promotional eligibility -

A candidate must have:

i. Passed probation with the Battle Ground Police Department.
ii. Served at least five (5) years as a commissioned Law Enforcement Officer.
iii. Candidates must meet eligibility requirements to attend the WSCJTC Basic Law Enforcement Equivalency Academy (BLEEA), if applicable.

b. Police Lieutenant promotional eligibility -

A candidate must have:

i. Served at least five (5 years) in the next lower class.
ii. Candidates must meet eligibility requirements to attend the WSCJTC Basic Law Enforcement Equivalency Academy (BLEEA), if applicable.

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

7.02.03 In the event less than three (3) eligible candidates are available from within the City of Battle Ground Police Department, or in the event no one attains a passing score on the promotional examination given, the commission may direct the Secretary to advertise the examination to include personnel outside the City of Battle Ground.

7.03 SPECIAL REQUIREMENTS.

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

7.04 CONDITIONAL ADMISSION.

If there is reasonable doubt as to whether the applicant meets the minimum requirements, the Secretary may order that the applicant be admitted to the examination on the condition that the particular requirements are met to the satisfaction of the Secretary before the applicant is enrolled on an eligible list.

7.05 REJECTION OF APPLICANT OR ELIGIBLE.

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

7.05.01 Does not meet the requirements set forth in these rules or in the bulletin announcing the examination, including but not limited to completing the general requirements for filing applications;

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

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

7.05.04 Has been dismissed or has resigned in lieu of discharge from any position, public or private, for any reason which would be a cause for dismissal from City service or has an unsatisfactory record of employment;

7.05.05 Has made any material false statement or has attempted any deception or fraud in connection with this or any other Civil Service examination;

7.05.06 Fails to appear for, or complete in a timely manner, any portion of the application and/or examination process;

7.05.07 Fails to respond to the Civil Service Examiner-Secretary.

7.05.08 Has assisted in preparing the examination for which application is sought or has in any other manner secured confidential information concerning such examination which might give an unfair advantage over other applicants in the examination;

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

7.05.10 Has been discharged from the armed forces under dishonorable conditions;

7.05.11 For failure to meet any other minimum requirement set forth by law;

7.05.12 Answers yes to any of the automatic disqualifiers identified by the City;

7.05.13 For other material reasons.

7.06 DEBARMENT FROM EMPLOYMENT.

7.06.01 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.

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

7.07 NOTICE OF NON-ACCEPTANCE.

Anyone against whom action is taken under Rule 7.05 shall be notified promptly by the Civil Service Department of the reasons therefore by either oral notice and/or email notification to the applicant or eligible.

7.08 ADMISSION TO EXAMINATION PENDING APPEAL.

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

7.09 AMENDMENT OF APPLICATION.

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

7.10 APPLICATIONS NOT RETURNED.

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

CHAPTER 8 – EXAMINATIONS

8.01 ORDERING EXAMINATIONS.

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

8.02 TYPES OF EXAMINATIONS.

8.02.01 NOTICE OF EXAMINATION.
Examination notices shall be sent out via email to all members of the Police Department and posted in the Police Department breakroom and on the patrol room bulletin board no less than fourteen (14) days preceding the examination.

8.02.02 CONTINUOUS TESTING ELIGIBILITY LIST.
The Secretary, following the approval of the Commission, shall establish an initial eligibility list for use by applicants testing through and certified for eligibility through the continuous testing process. Continuous testing lists may be established for entry level, academy graduate and lateral hires.

8.02.03 CONTINUOUS TESTING DEFINED.
Continuous testing shall mean a written and/or oral examination and may include a standardized physical fitness/agility test conducted pursuant to set and commonly applied standards whose results shall be valid for a period of one year from the date of certification by the Commission to a continuous testing entry level, academy graduate or lateral hire eligibility list.

8.02.04 CERTIFICATION.
Applicants certified pursuant to a continuous testing process shall be placed on a continuous testing entry level, academy graduate or lateral hire eligibility list. As each applicant is placed in accordance with his or her scores the placement of all others on the list shall be adjusted.

8.03 CHARACTER OF EXAMINATIONS.

All examinations shall be competitive, impartial, and practical in their character. They shall be designed to qualify and rank applicants in terms of their relative fitness to perform the duties of the class for which the examination was ordered. An examination shall be deemed to be competitive when applicants are tested as to their relative qualifications and abilities, or when a single applicant is scored against a fixed standard.

8.04 CONTENT OF EXAMINATION.

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

8.05 PARTS AND WEIGHTS.

Each examination shall contain one or more parts to which percentage weights shall be assigned, which weights shall total 100%. Each part shall be graded independently. This earned grade shall be multiplied by the percentage weight assigned to such part, and the sum of the resulting products shall be called the examination grade.

8.06 PASSING GRADE.

8.06.01 The name of the examinee shall not be entered on an eligible list without the examinee having attained a passing grade in the examination as established by the Secretary.

8.06.02 Entry-level applicants who complete the initial written test administered by Public Safety Testing, shall be graded with 100% as the maximum and with 70% representing the passing grade for such test. The physical fitness test is a graded on a pass/fail basis. Both must be passed to be eligible.

8.06.03 Initial oral board interviews (for entry-level, academy graduate, lateral police officer and non-commissioned position applicants) must be passed with a score of 75% or higher.

8.06.04 Promotional testing for Sergeant and Lieutenant exams shall be graded with 100% as the maximum and with 70% representing the passing grade.

8.06.05 Except as provided in the rules above, the Secretary shall, before identification of papers, authorize a grading schedule for tests with a minimum passing score which represents an acceptable degree of fitness on such subjects for the class of positions.

8.07 QUALIFYING GRADE.

Where any part or parts of an examination relate to qualifications deemed essential to the proper performance of the duties of the class, the Secretary may determine the minimum qualifying grade for each such part or parts. Failure to attain such grade shall disqualify an examinee, without regard to overall examination grade, and shall disqualify the examinee from participation or rating on other parts of the examination.

8.08 PROMOTIONAL EXAMINATIONS.

Vacancies in the higher positions of a class shall be filled by promotion, whenever practicable in the judgment of the Commission. Upon showing from a department that special training and knowledge gained within a department is essential to the proper filing of the vacancy; the Commission may limit an examination to a promotion within a department only.

8.09 OPEN GRADED EXAMINATIONS.

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

8.10 VETERANS' CREDIT.

Veterans who have passed an examination shall be entitled to credit pursuant to Chapter 41.04 RCW, or other law. It is the candidate's responsibility to submit appropriate documentation of veteran's status to receive points.

8.11 RELEASE OF INFORMATION FOLLOWING PROMOTIONAL EXAMINATIONS.

All candidates who take the promotional exam will receive information as follows:

8.11.01 The Secretary will notify each candidate of their final score and/or rank.

8.11.02 The Secretary will notify each candidate of their appeal rights.

8.11.03 Candidates may submit a request to the Secretary to review their exam information. Exam information includes written exams and rater comments from interview panels or other assessments, etc. This will not include rater names or a right to review the actual written rater notes.

8.11.04 Candidates may not copy exam information.

8.12 EXAMINATION – PROTEST.

8.12.01 An individual that participates in the exam process may file a protest of the exam based on the following grounds:

a. The Commission failed to follow the City ordinance, state law or its own rules in the administration of the exam and/or the exam process;

b. The exam was not valid, e.g., was not job related;

c. The examiners were not impartial;

d. A clerical error was made in scoring the exam; (This does not include disagreement with the number of points or score awarded by a rater(s); or

e. The exam or exam process was discriminatory as defined under state and/or federal law.

Except for reasons stated in 8.12.01, there is no protest available under the rules for any action taken by the Secretary or Commission outlined in this rule.

8.12.02 Any exam administered after the certification such as: background, polygraph, psychological or medical is not subject to protest.

8.13 PROCEDURES FOR FILING EXAM PROTESTS.

The following procedures must be followed for filing an exam protest:

a. Notice of protest must be in writing and filed with the Secretary of the Commission.

b. The notice of protest must contain a brief description of the facts giving rise to the protest, a concise statement of the reason for the protest and the desired remedy. In addition, the protest must list what rule under 8.12.01 was violated.

c. The notice must be received by the Secretary of the Commission within ten (10) business days following the action being protested. Failure to file a protest within this time period is a waiver of any right to protest the exam that is established by these rules.

d. Any protest that does not meet the above criteria will not be considered valid.

8.14 REEXAMINATION.

8.14.01 No one shall be reexamined for the same class within one year of the effective date of such examination, unless authorized by the Secretary upon determination that it would be in the best interest of the City.

8.14.02 If an entry level applicant takes a succeeding examination through Public Safety Testing for the same class, the result of such examination shall replace the current score on the eligibility list already established. Eligibility attained by the second examination shall be entered on the list, and the eligibility will reflect the most current Public Safety Testing score.

8.15 EXAMINATION PAPERS.

Examination papers of each eligible shall be kept on file in the office of the Secretary until expiration of eligibility and in accordance with state retention guidelines.

8.16 ADDITIONAL EXAMINATION.

8.16.01 Eligibles certified pursuant to Rule 9 shall be subject to medical, physical, or psychological examination and to such other examinations administered by the Secretary as authorized and approved by the Commission. Such other examinations include, but are not limited to, background examination and polygraph, provided, however, polygraph examination shall be allowed only for applicants applying for a position with a law enforcement agency under RCW 49.44.120. Reports of such examination shall be filed with the Commission in the event the findings of

the examination recommend that the eligible be rejected. The Secretary shall consider such recommendation, may require further examination, and may order the eligibles name dropped from the eligible list.

8.16.02 The Secretary may designate a limited number of certified eligibles for additional examination as provided in Rule 8.16.01, in order to maintain an ability to certify lists pursuant to Rule 10.

8.16.03 Before the appointing authority refers an eligible for medical (including mental health) examination, a conditional offer of employment must be made.

8.17 MULTI-PART EXAMINATION.

Where an examination consists of two or more parts, the Secretary may:

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

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

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

8.17.04 Employ all or any of the above options for multi-part examinations in any examination.

8.18 NUMBER OF APPLICANTS – LIMITATIONS.

The Secretary may restrict the number of qualified applicants to be examined whenever an examination for a position is likely to attract large numbers of qualified applicants, and when job related testing processes are prohibitively costly or impractical to administer to all qualified applicants, or may have adverse impact on protected groups.

CHAPTER 9 – LISTS AND ELIGIBILITY

9.01 ESTABLISHMENT OF ELIGIBILITY LISTS.

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

9.01.01 On a promotional list: relative rank shall be determined by the examination rating or grade.

9.01.02 On an open graded list: relative rank shall be determined by the examination grade, plus percentage allowed by law for veterans' preference.

9.01.03 Priority of time of examination shall not give any preference in rank on the list.

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

a. The one who qualifies for veterans' preference in accordance with Washington state law. Eligibles on a promotional (and not open) list do not qualify.

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

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

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

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

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

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

9.01.05 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 list in accordance with the final examination grade. Any such eligibility shall expire with that of other eligibles from the same examination.

9.02 RETURN TO LIST FOLLOWING LAYOFF.

On layoff, an employee's name shall be placed on the proper eligible list for the class [ranked by seniority/service credit] for one (1) year from the date of such layoff.

9.03 RETURN TO LIST AFTER RESIGNATION OR RETIREMENT.

9.03.01 A former employee who resigned or retired may request return of his or her name to the proper open graded eligible list for the class. Such request must be made within one (1) year from the date of resignation or retirement.

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

9.03.03 A former employee whose eligibility is reinstated under this rule shall be certified in accordance 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 list.

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

9.04 APPOINTMENT WITHOUT EXAMINATION.

Except as provided in 9.02, 9.03, and 9.06, any return to the Civil Service shall be by examination only.

9.05 DURATION OF ELIGIBILTY LISTS.

9.05.01 Entry-level eligibility lists shall be valid for twelve (12) months following certification by the Commission.

9.05.02 Academy Graduate eligibility lists shall be valid for twelve (12) months following certification by the Commission.

9.05.03 Lateral eligibility lists shall be valid for twelve (12) months following certification by the Commission.

9.05.04 Promotional eligibility lists shall be valid for eighteen (18) months following certification by the Commission.

9.05.05 Non-Commissioned position eligibility lists shall be valid for twelve (12) months following certification by the Commission.

The commission may schedule examinations prior to the expirations of the eligibility lists, or extend the expiration date of the eligibility list if it is deemed to be in the best interests of the service. It is the intent of the commission to establish and maintain appropriate eligibility lists to certify names for appointments as the needs of the services arise.

9.06 ESTABLISHMENT OF REINSTATEMENT LISTS.

9.06.01 The names of regular employees who have been laid off, as defined by Rule 4.29 or reduced, as defined by Rule 4.36, when requested in writing by the appointing authority, shall be placed upon a reinstatement list for the same class and for the same department from which laid off or reduced, for a period of one year from the date of layoff or reduction; the reinstatement list shall supersede any other eligibility lists.

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

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

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

9.07 AVAILABILITY OF ELIGIBLES.

9.07.01 It shall be the responsibility of an eligible to notify the Secretary in writing immediately of changes in address, email address, telephone number,

change of name through marriage or otherwise, or any changes which may affect availability for employment.

9.07.02 The name of an eligible who submits a written statement restricting the eligibility for employment shall be withheld from certifications if the restrictions do not meet the conditions specified for appointment. New written statements may be filed at any time within the duration of an eligible list modifying conditions under which employment would be accepted.

9.08 REMOVAL FROM ELIGIBILITY LIST.

9.08.01 Anyone's name may be removed from an eligible list upon receipt of proof of bad character or other unfitness; fraudulent conduct; false statements by the eligible or by others with the eligibles collusion; material physical or mental disability; or other disqualifying factor in connection with any application, examination for, or securing of an appointment.

9.08.02 A previous unsatisfactory work record with the City or dismissal from the service, or dismissal from any position, public or private, for any cause which would be a cause for dismissal from City service shall be deemed cause for cancellation of eligibility;

9.08.03 Failure to pass a required examination or test;

9.08.04 Separation from the service will terminate any promotional eligibility;

9.08.05 Upon report of an appointing authority that an eligible refused to accept employment, the Secretary may strike the eligibles name from the list;

9.08.06 Failure to respond when required within five (5) business days of a call or other contact by the Secretary or appointing authority;

9.08.07 Refusal to accept reemployment in a position shall constitute separation from the service;

9.08.08 Fails to successfully complete or meet the standards set for any part of the pre-employment process, including but not limited to, the exam and background investigation, polygraph, etc.;

9.08.09 Requests that his or her name be removed from the list;

9.08.10 In the case of a promotional list, has separated from city employment for any reason; or

9.08.11 For other material reasons.

9.09 RESTORATION OF NAMES TO ELIGIBILITY LISTS.

The name of an eligible which has been removed from a list 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.

CHAPTER 10 – CERTIFICATION AND APPOINTMENT

10.01 GENERAL PROVISIONS.

Vacancies in the classified Civil Service shall be filled by reinstatement, promotional appointment, assignment, original appointment, transfer, reduction, or demotion. In the absence of an appropriate list, the Secretary may authorize a temporary or provisional appointment.

10.02 REQUEST FOR CERTIFICATION.

Whenever an appointing authority wishes to fill a vacancy, a request for certification shall be submitted to the Secretary.

10.03 CERTIFICATION.

10.03.01 ELIGIBILITY LIST. Certification to fill a vacancy shall be made by the Civil Service Department from lists in the following order and as provided in this rule:

1. Reinstatement
2. Promotional
3. Original

10.03.02 ORDER OF REINSTATEMENT – ELIGIBLE.

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

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

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

b. Upon request from the appointing authority, the Secretary may authorize reinstatement out of such regular order upon a showing of efficiency or that such action is for the good of the service, after giving the employees adversely affected an opportunity to be heard.

c. Nothing in this rule shall prevent that 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.

10.03.03 PROCEDURE FOR APPOINTMENT. The procedure for appointing a candidate from a certified eligibility list other than the reinstatement list shall be as follows:

a. For the class of Police Officer (Entry-Level, Academy Graduate, or Lateral), and Non-Commissioned positions, if a vacancy is to be filled from an eligibility list, the Secretary shall provide to the appointing authority the names of the ten (10) highest ranking eligible candidates from each eligibility list that are qualified and available for employment. It is at the discretion of the appointing authority to select from any of the ten eligible candidates provided, without regard to ranking, from any of the lists (known as a rule of ten).

b. For the class of Police Sergeant and Police Lieutenant, if a vacancy is to be filled from an eligibility list, the Secretary shall provide to the appointing authority the names of the three (3) highest ranking eligible from each eligibility list that are qualified and available for employment. The appointing authority has discretion to hire any of the three eligible candidates provided, without regard to the ranking within those three (known as a rule of three).

10.03.04 MULTIPLE VACANCIES. If two or more vacancies are to be filled from any of the above lists other than the reinstatement list, the name of one additional person shall be certified for each additional person.

10.03.05 ADDITIONAL NAMES. If an appointing authority makes an acceptable showing that any of the eligibles certified are not available or that they do

not respond, sufficient additional names shall be furnished to complete the certification.

10.03.06 SPECIAL SKILLS. Where a certification of eligibles with special experience, training, or skills is requested in writing by the appointing authority as being necessary for satisfactory performance in a particular position, and the Secretary determines that the reasons given fully justify the request, a certification may be made of only the highest ranking eligibles that possess the special qualifications.

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

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

10.04 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 or her desire to be returned to the list, and such return has been approved by the Secretary.

10.05 REGULAR APPOINTMENT.

A regular appointment to fill a vacancy must be made from the names contained on the official certification. The official appointment letter shall show the name of the person appointed, the effective date, the salary, the nature or duration of the appointment, and any other information required.

10.06 TEMPORARY APPOINTMENT.

Where there is no suitable eligible list from which certification can be made, the Secretary may allow the appointing authority to make a temporary appointment. The individual serving in a temporary appointment may not work more than 1040 hours in a calendar year.

CHAPTER 11 – PROBATION

11.01 PROBATIONARY PERIOD.

11.01.01 After each regular appointment from an eligible list, the employee appointed shall serve a complete period of probation before the appointment is deemed complete. The purpose of the probationary period is to provide a trial period during which the department may observe the performance of the probationary employee before civil service status is acquired.

11.01.02 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.

11.02 LENGTH OF PROBATIONARY PERIOD – ENTRY-LEVEL.

The entry-level probationary period shall be from the date of hire, plus one (1) year after the successful completion of the WA state basic law enforcement academy. 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.

11.03 LENGTH OF PROBATIONARY PERIOD - ACADEMY GRADUATE.

The Academy Graduate probationary period shall be for a period of twelve (12) months. 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.

11.04 LENGTH OF PROBATIONARY PERIOD – LATERAL.

The lateral probationary period shall be for a period of twelve (12) months. 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.

11.05 LENGTH OF PROBATIONARY PERIOD – NON-COMMISSIONED STAFF.

The Non-Commissioned staff's probationary period shall be for a period of six (6) months.

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.

11.06 LENGTH OF PROBATIONARY PERIOD – PROMOTIONAL.

Any promotional appointment probationary period shall be for a period of twelve (12) consecutive months from the date the eligible was first appointed. 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.

11.07 INTERRUPTION OF PROBATIONARY PERIOD BY MILITARY SERVICE.

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

11.08 DEMOTION.

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

11.09 REMOVAL OF PROBATIONER.

11.09.01 GROUNDS. 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.

11.09.02 PROCEDURE. The appointing authority must provide the reasons for the removal with the Secretary prior to the end of the probationary period. Notice must be mailed to or personally served on the employee and proof of notice filed with the Secretary.

11.09.03 RIGHTS RETAINED. A promotional probationer, unless discharged for cause, retains all civil service rights to the position from which appointed. Such rights shall be retained whether promotion is to an entrance or

promotional position.

11.10 PROTESTS.

Any probationer may file a written protest with the Secretary protesting a termination of probationary status or demotion. All protests must be filed within ten (10) business days of notice of the action taken. The Secretary will give due consideration to and take appropriate action on all timely-filed protests. Probationers may appeal a decision of the Secretary to the Commission under Rule 17.

CHAPTER 12 – SERVICE CREDIT

12.01 Service credit in a class for a regular employee shall be computed to cover all service subsequent to regular appointment in that class and shall be applicable in the department in which employed.

12.02 DETERMINATION.

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

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

12.03 REQUESTS FOR CONFIRMATION.

12.03.01 REQUESTS. Any regular employee, or an association or union on behalf of such employee, or the head of an employee's department may request a determination of the employee's earned service credit as of a designated date in any specified class and department in which they have served. If the request is made at a reasonable time and interval, and subject to such directives as may be then in effect, the Secretary shall as soon as practicable but within ten (10) business days ascertain the requested computation, and shall so notify the requesting employee, association, and union or department head in writing.

12.03.02 PROTESTS. If any employee, association, union or department head has cause to object to the computation of the employee's service credit, written protest may be filed with the Secretary setting forth with particularity the reason and basis for the objection. Such protests must be filed within ten (10) business days. The Secretary shall give due consideration to all timely-filed protests and take such action as deemed appropriate.

12.04 SERVICE COVERED.

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

12.04.02 PROBATIONARY PERIOD. After completion of the probationary period, a regular employee shall receive credit for actual service during such period. If a probationer fails to complete satisfactorily the required probationary period and is returned to the former regular class, actual service during such period shall be credited to the former class.

12.04.03 TEMPORARY OR PROVISIONAL APPOINTMENT. If a temporary or provisional appointment is followed by a regular appointment to the same class, such employee shall receive credit in such class for actual, continuous service during the temporary or provisional appointment. A regular employee shall receive service credit in the regular class for the period after the regular appointment, served under a temporary or provisional appointment to another class or department or to an exempt position, if the employee returns to the regular class after the expiration or termination of such service.

12.04.04 ON ASSIGNMENT. A regular employee shall be credited to the regular class for the entire length of time served under an assignment.

12.04.05 LEAVES WITH PAY. A regular employee shall receive full credit for any leave with pay.

12.04.06 LEAVES WITHOUT PAY. No service credit shall be allowed for any time that an employee is on any leave of absence without pay.

12.04.07 SUSPENSION. No service credit shall be allowed while an employee is on a suspension without pay, unless the suspension is modified, reversed or nullified on appeal.

12.05 CHANGE IN CLASS OR DEPARTMENT.

12.05.01 GENERALLY. No service credit earned by a regular employee in any one class and department shall be carried over upon appointment, promotion, reinstatement, transfer, demotion or voluntary reduction to or from another class or department, but such service credit shall be permanently retained in and be credited to the class and department in which it was earned, unless expressly provided by these Rules.

12.05.02 ABOLITION OF CLASS. In the event that a regular employee's former class is abolished or changed, all service credit earned in such class prior to its abolition or change and not lost or forfeited shall be credited to another class in the same department, which is substantially similar to, and is neither higher nor lower than, the abolished or changed class.

12.05.03 COMBINATION – COMPUTATION. Whenever the service credit of a regular employee earned in two or more classes, or in the same class in different departments, is to be combined under these Rules as hereinafter prescribed, the service credit earned and not lost or forfeited in each such class and department shall be computed separately and shall be added together, and the total sum shall represent the employee's service credit for the particular purpose in question.

12.06 PROMOTION – COMPUTATION OF CREDIT.

Upon completion of the probationary period for a promotional position, an employee shall receive credit for all service in the promotional class and particular department, which shall be credited to that class and department. All prior service credit earned in the lower class and department shall be retained by the employee, but such service credit shall be credited only to that latter class and department.

12.07 TRANSFER – COMPUTATION OF CREDIT.

A regular employee shall be entitled to retain all service credit earned in any class and department prior to an authorized transfer there from, which shall be credited to such former class and department. Service credit earned in the new class or department to which transferred shall be credited to such new class or department, from the effective date of the transfer. If the transfer becomes regular, the required trial period, if any, shall be credited to the new class or department. Otherwise, such trial period as served shall be credited to the former class or department.

12.08 DEMOTION – COMPUTATION OF CREDIT.

Upon involuntary demotion of an employee in accordance with these Rules, all service credit earned in the class and department from which demoted, up to the effective date of the demotion shall be retained by the employee, unless otherwise provided in the demotion order and approved by the Commission. From that time, the employee shall be entitled to such service credit earned in the lower class to which demoted, plus whatever service credit formerly earned in such class and department and not lost or forfeited.

12.09 VOLUNTARY REDUCTION – COMPUTATION OF CREDIT.

Upon the voluntary reduction of a regular employee to a lower class in the same or different department as provided by these Rules, such employee shall retain all earned service credit in the higher class and department from which reduced, prior to such reduction, if not lost or forfeited.

12.09.01 SIMILAR CLASSES. If a regular employee's position is reallocated to a different class which is substantially equivalent to the former class, all the service credit previously earned in the former class and same department and not lost or forfeited shall be credited to the new class. In addition, thereto, the employee shall receive all service credit subsequently earned in the new class and the same department.

12.09.02 DISSIMILAR CLASSES. If the position is reallocated to a class which is not substantially similar, the service credit earned in the former class shall be credited only to such former class and department.

12.10 LAYOFF – COMPUTATION OF CREDIT.

No service credit shall accrue or be allowed during the period in which an employee is laid off, but all service credit earned and not lost or forfeited up to the effective date of the layoff shall be retained by the employee during the period of time the employee remains on the reinstatement list and the period of re-employment if appointed from the reinstatement list. Retained service credit is forfeited if the laid-off employee fails to accept appointment from the reinstatement list or eligibility for the reinstatement list expires.

12.11 SERVICE CREDIT UPON SEPARATION FROM SERVICE.

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

CHAPTER 13 – TRANSFER – REDUCTION

13.01 GENERAL.

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

13.02 INTRA-DEPARTMENTAL TRANSFERS.

An appointing authority may transfer an employee from one position to another position in the same class in the same department without prior approval of the Secretary but must report any such transfer to the Civil Service Department within five (5) business days of its effective date.

13.03 PROCESS.

Transfers may be made upon consent of the department head and with the Secretary's approval as follows:

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

13.03.02 Transfer to another class 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 that transferee is capable of satisfactorily performing the duties of the new position;

13.03.03 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.

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

13.03.05 The Secretary may approve a transfer under this Rule 13.03 with the consent of the appointing authority of the receiving department only, upon a showing of circumstances justifying such action.

13.04 LIMIT OF RULE.

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

13.05 REDUCTION.

13.05.01 AUTHORIZED. As defined in Rule 4.36, a reduction is the movement of an employee from a higher class to a lower class of employment for reasons other than cause. A reduction may be made only upon an employee's written request, and consistent with these Rules.

13.05.02 APPLICABLE CLASSES. A reduction may be approved for:

a. The next lower or any lower class in the Class Series containing the class from which reduced;

b. Any lower class in which the employee has previously acquired regular standing, provided there has been no intervening forfeiture; or

c. Any lower class which is substantially similar to any lower class (in the employee's current class series) in the position classification plan; or

d. Employees seeking return to employment or reemployment from a disability, to a vacant position in another permissible class or department for which the employee qualifies.

13.05.03 PROCEDURE.

a. A request for reduction must be submitted in writing to the Secretary. The request must include statement of justifiable or satisfactory reason, including a showing that the employee meets the qualifications of the lower class.

b. The reduction must be approved by the Human Resources Department and the City Manager, and reported to the Commission.

c. The reduction shall take effect on the date ordered by the Secretary.

13.05.04 EFFECT OF REDUCTION.

a. Upon the effective date, or following satisfactory completion of any trial period, the reduction shall be complete and the employee shall have regular standing in the lower class and department to which reduced.

b. An employee reduced shall be able to return to the former position only by examination and regular appointment. In the event of a recovery from disability, an employee reduced in class may be eligible for appointment from a reinstatement list.

13.05.05 REDUCTION AVAILABLE.

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

b. By Department.

1. Employees with Standing. Reduction involuntarily of an employee from a higher civil service class to a lower civil service class is governed by Rule 14, Layoff. Return of an employee from an exempt position to a civil service position is governed by Rule 15, Leaves of Absence.

2. Employees without Standing. When an employee is reduced from an exempt position, the employee may petition in writing the Commission within ten (10) business days of the end of employment in the exempt position for placement on a reinstatement list for a class for which the employee is deemed eligible. In considering the placement of the employee, the Commission may consider the employee's experience, the record of City employment, or such other factors as deemed in the best interest of the

system. The Commission's decision shall be deemed permissive and discretionary, and an employee shall have no claim or cause for denial of placement on a reinstatement list.

13.05.06 The Commission may, in its judgment and discretion, provide in the order granting or approving any reduction that the employee shall serve a designated trial period, not to exceed one (1) month's service from the effective date of the reduction, in the position to which reduced for the sole purpose of satisfying the Commission that employee is capable of satisfactorily performing the functions and duties of such position or class. Provided, the Commission may for cause shown, at any time during the prescribed trial period, extend, shorten, modify or waive in whole or in part the duration or balance of such period.

CHAPTER 14 – LAYOFF

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

14.01.01 Provisional appointees;

14.01.02 Temporary or intermittent employees not earning service credit;

14.01.03 Probationers (except as their layoff may be affected by military service during probation);

14.01.04 Regular employees in the order of their length of service, the one with the least service being laid off first.

14.02 LAYOFF OUT OF ORDER.

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

14.03 REDUCTION IN LIEU OF LAYOFF.

At the time of any layoff, a regular employee or a promotional probationer, shall be given an opportunity to accept reduction to the next lower class in a series of classes previously held in this department, or they may be transferred as provided by Rule 13.03.03.

14.04 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 Service Credit Rule 12.

14.05 REINSTATEMENT.

Reinstatement of a laid-off employee through appointment from a reinstatement list is governed by Rules 9.02, 9.06 and 10.03.

CHAPTER 15 – LEAVES OF ABSENCE

15.01 REQUESTS FOR LEAVE OF ABSENCE.

15.01.01 Leave of absences may be granted for employees in accordance with City policy or collective bargaining agreement.

15.02 CANCELLATION/REVOCATION.

Any or all leaves of absence without pay within a department may be cancelled whenever any necessity arises in the good faith judgment of the department head. A department head may revoke an individual employee's leave without pay if it is found that the employee is using the leave for purposes other than that for which it was granted. Employees may be ordered to return to work immediately or as soon as possible on written notice from the department head of the cancellation or revocation of leave. A copy of such notice shall be filed with the Secretary.

15.03 RETURN FROM LEAVE.

At the expiration of the authorized leave of absence, a probationer or regular employee shall resume the same class of work with standing and service credit as determined by these rules.

15.04 MILITARY LEAVE.

See City policy and state and federal law relating thereto.

15.05 FILLING VACANCY.

All temporary employment caused by leave of absence shall be made pursuant to Rule 10.

15.06 PROTESTS.

All protests to any action pertaining to leaves of absence shall be filed with the Secretary within ten (10) business days of notice of such action. The Secretary shall give due consideration to and take appropriate action on all timely filed protests.

CHAPTER 16 – RESIGNATION

16.01 HOW SUBMITTED.

Resignation of any employee from the service shall be made in writing and filed with the Secretary after approval by the appointing authority. An employee may resign from a civil service position by presenting his/her resignation in writing to the appointing authority. To resign in good standing, an employee shall give at least two calendar weeks' notice, unless, because of extenuating circumstances, the appointing authority agrees to permit a shorter period of notice. The appointing authority may make or cause to be made such investigation as it deems warranted, for the purpose of verifying reasons for each resignation. An employee's resignation and the circumstances pertinent to it shall be recorded in his/her personnel file.

16.02 INVOLUNTARY RESIGNATION.

Any resignation may be voided and set aside, and the employee reinstated or restored to active duty by order of the Commission upon its determination that the resignation was made involuntarily or under duress or coercion, after giving the department head reasonable notice and an opportunity to be heard on the matter. Such action by the Commission may only be taken upon the written petition of the resigned employee filed with department head or the Human Resources Department within ten (10) business days from the effective date of the resignation. If no such petition is filed within the ten (10) business day limit, a resignation shall be conclusively presumed to have been made voluntarily and without duress or coercion.

16.03 IMPLIED RESIGNATION.

The department head may presumptively consider any employee to have impliedly resigned upon finding that such employee has been absent from duty without leave or authorization or has failed to report for duty following the expiration or termination of any suspension for five (5) or more consecutive working days or has quit or "orally resigned" and has been absent from duty for three (3) or more consecutive working days without leave or authorization. An employee will not be determined to have resigned under this rule until five (5) days after proof of service of a written notice by delivery or by registered or certified mail to the employee's last known address as filed with the Human Resources Department. No resignation order shall take effect if, prior thereto, the employee reports for active duty, applies for restoration or reinstatement, or otherwise gives notice to the department head or the Human Resources Department

which, in the judgment of the Commission, rebuts the presumption of resignation.

16.04 RETURN TO ELIGIBILITY LIST FOLLOWING RESIGNATION.
(See Rule 9.03)

CHAPTER 17 – DISCIPLINE AND DISCHARGE

17.01 GENERAL.

17.01.01 All disciplinary actions shall be made in good faith and for cause.

17.01.02 Written record of each official reprimand, suspension, demotion and discharge shall be served on the employee personally or by certified mail and filed with the Human Resources Department for placement in the employee's personnel file.

17.02 SUSPENSION.

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

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

17.03 DEMOTION.

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

17.03.02 The Secretary shall be satisfied as to the ability of such demoted employee to perform the duties of the lower class. The demoted employee may be required to actually serve a trial period in the class to which demoted, for such time and upon such terms and conditions as the head of the department may provide in the demotion order, for the sole purpose of determining the capability to satisfactorily perform the functions and duties of such class.

17.03.03 Upon satisfactory completion of the prescribed trial period or upon the

effective date of the demotion if no such period is required, the demoted employee shall have the status, rank and standing of the lower class to which demoted, and such class and department shall be deemed to be the employee's regular class and department for purposes of these Rules until an authorized change is made.

17.04 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 list.

17.05 DISCIPLINE – CAUSE – ILLUSTRATED.

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

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

17.05.02 Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, 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;

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

17.05.04 Dishonest, disgraceful, or prejudicial conduct;

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

17.05.06 Conviction of a felony, or a misdemeanor involving moral turpitude;

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

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

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

17.05.10 Absence from duty without leave or authorization.

17.05.11 Gross negligence or recklessness in the use of City property.

17.05.12 Unauthorized taking, damaging, destroying or altering of City property or records.

17.05.13 Any other cause, act or failure to act which, under law or these Rules, or the judgment of the Commission, is grounds for or warrants dismissal, discharge, removal or separation from the service, demotion, suspension, forfeiture of service credit, deprivation of privileges or other disciplinary action.

CHAPTER 18 – PREDISCIPLINARY HEARING

18.01 PREDISCIPLINARY HEARING – REQUIRED.

A department head shall provide and arrange for a predisciplinary hearing prior to demotion, suspension, or discharge of a subordinate. The hearing under this Rule 18 is not subject to Rule 19, and does not require witnesses, presentation of evidence or other formalities. It is an opportunity for an employee to present to the appointing authority the employee's response prior to the decision on discipline.

18.02 PREDISCIPLINARY HEARING – STANDARDS/NOTICE OF DISCIPLINE.

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

18.02.02 The employee may have legal counsel or union representative present at a predisciplinary hearing.

18.02.03 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 be not be construed to limit the employer at subsequent, post-disciplinary hearing from presenting a more detailed and complete case, including presentation of witnesses and documents not available at the predisciplinary hearing.

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

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

CHAPTER 19 – HEARINGS

19.01 HEARINGS – APPEALS.

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

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

19.01.03 Any employee, or department, who is adversely affected by an alleged violation of Civil Service or City [ordinance/policy] may appeal such violation to the Commission.

19.02 APPEALS – TIME – FORM.

A notice of appeal shall be filed with the Secretary within ten (10) business days of the action that is the subject of appeal. The notice of appeal shall be in writing and include the mailing address and street address where service of process and other papers may be made upon the appellant. The notice of appeal shall also contain a brief description of the facts giving rise to the appeal and a concise statement of the reason for the appeal.

19.03 EXHAUSTION OF ADMINISTRATIVE REMEDIES.

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

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

19.04 AUTHORITY OF CIVIL SERVICE EXAMINER-SECRETARY AND STAFF.

19.04.01 The Secretary 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 may also conduct pre-hearing settlement conferences (in order to encourage resolution of contested matters), issue subpoenas for depositions and for hearings.

19.04.02 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.

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

19.04.04 The Commission may direct a hearing officer of its selection to carry out the proceedings, including activities of the Secretary, under Rule 19.

19.05 APPEALS – INTIAL REVIEW.

The Secretary shall review all appeals to determine whether the employee has timely filed an appeal and whether the action appealed is a final action. Upon a determination that the appeal is not timely, the Secretary shall issue a written order of dismissal with prejudice, setting forth the basis of 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.

19.06 APPEALS – NOTICE OF HEARING.

Upon receipt of a notice of appeals, the Commission staff shall forward a copy of the notice to the other affected parties. As soon as possible thereafter, but in any event within ten (10) business days, a scheduling/pre-hearing conference before the Commission shall be set, with each party to be afforded not fewer that ten (10) business days' notice of such hearing. Subsequent hearings on the same appeal shall have at least

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.

19.07 APPEALS – AUTHORITY OF DEPARTMENT.

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

19.08 SERVICE OF PROCESS – PAPERS.

19.08.01 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.

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

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

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

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

19.09 DISCOVERY.

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

19.09.02 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.

19.10 SUBPOENAS.

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

19.10.02 Upon application of any party or his/her representative, the Secretary shall issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence of such proceeding. The party requesting the subpoena is responsible for having the subpoena properly served. Requests for subpoenas shall be submitted to the Secretary's office at least three (3) business days prior to the hearing.

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

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

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

1. Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or

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

19.11 BURDEN OF PROOF.

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

19.12 EVIDENCE.

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

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

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

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

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

19.12.06 An employee has the right to appear before the Commission with or without counsel and to be heard in the employee's defense.

19.13 DELIBERATION.

The Commission may deliberate in closed (executive) session when taking a disciplinary or other quasi-judicial case under advisement. Deliberations by the Commission shall

otherwise be subject to Chapter 42.30 RCW. No person other than the Secretary 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.

19.14 REMEDIES.

The Commission may issue such remedial orders as deemed appropriate.

19.15 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) business days of the decision of the Commission. Such motion for reconsideration shall be decided on affidavits, absent special showing that testimony is necessary.

19.16 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 any of these rules.

CHAPTER 20 – RETIREMENT AND DISABILITY

20.01 RETIREMENT.

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

20.02 REINSTATEMENT AFTER DISABILITY RETIREMENT.

20.02.01 PROCEDURE. The Secretary shall review any report from a retirement system showing that a former employee who is on disability retirement has regained his/her health to the extent employable. 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 list for an available class and department.

Provisions of reinstatement for members of the LEOFF retirement system are set forth in RCW 41.26.

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

CHAPTER 21 – MISCELLANEOUS

21.01 REPEALS AND SAVINGS.

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

21.02 COMPUTATION OF TIME.

21.02.01 In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or City legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a City legal holiday. When the period of time prescribed or allowed is five (5) days or less, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

21.02.02 Any period of time except for the stated period of time set forth in Rules 19.02 and 19.06 may be extended by the Secretary for no more than fourteen (14) days upon written notice to the Commission and a showing of good cause. The motion for extension of time must be filed with the Secretary's office prior to the end of the applicable time period.

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

21.03 CIVIL SERVICE AND COLLECTIVE BARGAINING.

The Public Employees' Collective Bargaining Act, Chapter 41.56 RCW ("Act") provides for collective bargaining agreements between the City and the labor organization(s) representing employees. The Act and collective bargaining agreements prevail over these rules in the event of conflict.