



CIVIL SERVICE RULES

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CITY OF LAKEWOOD CIVIL SERVICE RULES

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1. GENERAL PROVISIONS

- 1.1 **AUTHORITY.** These rules are promulgated under the authority granted by Chapter 41.12 RCW, Civil Service for City Police, and City ordinance.
- 1.2 **SCOPE AND PURPOSE.** These rules govern the continuing administration of the Police Civil Service System of the City of Lakewood. Their purpose is to assure that the Police Civil Service System is administered in accordance with all applicable laws, ordinances and policies and that all proceedings before the Commission are conducted in an orderly, fair and timely manner.
- 1.3 **PRESUMPTION OF VALIDITY.** The Police Civil Service System implemented by these rules substantially accomplishes the purpose of Chapter 41.12 RCW. Variations from state models are based on local conditions and are intended to maintain the purpose of civil service systems: merit selection, tenure, and an independent civil service commission. These rules are presumed to be valid and will be upheld unless found to be in direct conflict with the purpose of Chapter 41.12 RCW.
- 1.4 **SEVERABILITY.** If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity will not affect other provisions or applications of these rules that can be given effect without the invalid provision or application, and to this end, any section or word is declared to be severable.
- 1.5 **CONFLICT.** In the event of a conflict between these rules and an applicable collective bargaining agreement under Chapter 41.56 RCW, the provisions of the collective bargaining agreement will prevail.

2. ADMINISTRATION AND OPERATIONS

- 2.1 **COMMISSION--MEETINGS--QUORUM.** The Commission is comprised of three (3) members. In the necessary conduct of its work, the Commission meets on the first Thursday of each month, at Lakewood City Hall, 6000 Main Street SW, unless there is no pending business requiring Commission action. Notice of all meetings will be provided as required by the Open Public Meetings Act (Chapter 42.30 RCW, as amended). The Commission will conduct hearings and provide notice of hearings as required by these rules. The presence of 2 members of the Commission constitutes a quorum. No action of the Commission is effective unless 2 members concur therein. All Commission meetings or hearings, regular or as required, are open and public, but the Commission may meet in executive session as authorized by the Open Public Meeting Act (Chapter 42.30 RCW, as amended).
- 2.2 **CHAIR.** At the first regular meeting in January of each year, the Commission will elect one of its members to serve as Chair. The Chair will serve for a term of one (1) year, unless replaced by a majority vote of all Commissioners. Should a Chair resign or be removed from the position before the expiration of his/her term, the Commission, upon appointment of a new member, will elect a new Chair.
- 2.3 **RULES OF ORDER.** Robert's Rules of Order is the final authority on all questions of procedure and parliamentary law not otherwise provided by these rules. With the concurrence of 2 commissioners, such rules may be waived or modified.
- 2.4 **COMMISSIONERS--CHALLENGE.** Any challenge to a commissioner's sitting at a hearing must be made by an interested party's submitting a written affidavit to the Human Resources Manager at least ten (10) days before the hearing commences or as soon as possible after the party learns of the alleged interest, prejudice or close relationship that is the basis of the challenge. The Commission will review the affidavit and vote on the challenge before proceeding with the hearing. Upon the Commission's finding of cause for disqualification, the challenged commissioner will take no part in the hearing. Failure to timely raise a challenge constitutes a waiver of the challenge by the party.
- 2.5 If, as a result of disqualification(s) pursuant to Rule 2.4, a lawfully constituted quorum is no longer available, the City Manager will appoint an Alternative to serve on the Commission for that hearing and the hearing will proceed.
- 2.6 **BUSINESS HOURS.** The business hours of the Civil Service Commission staff are those of Lakewood City Hall, 8:30 a.m. – 5:00 p.m., Monday through Friday with the exception of legal holidays.
- 2.7 **PUBLIC RECORDS.** Public records of the Commission are available for inspection and copying during the regular office hours of the Commission staff and in keeping with City policy.
- 2.8 **RECORD OF PROCEEDINGS.** The Commission will keep a record of all proceedings. The record of the Commission will not include a written verbatim report of proceedings unless timely ordered. 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 to Superior Court, the Commission, or a prevailing party, at the discretion of the reviewing court, may recover costs of transcription. Upon appeal or review, the Secretary-Chief Examiner will arrange transcription and certification of a record of proceedings.

2.9 REPORTS-APPLICANTS, ELIGIBLES, EMPLOYEES.

2.9.1 Each applicant, eligible and employee will keep the Commission informed, by written notice to the Secretary-Chief Examiner, of his/her current address and telephone number and will report any change of name through marriage or otherwise. Failure to do so alleviates the City of any responsibility for notification.

2.9.2 Each eligible will keep the Secretary-Chief Examiner informed, in writing, regarding his/her availability and any refusal to accept an appointment or promotion and the reasons therefore.

2.10 REPORTS--APPOINTING AUTHORITIES. An Appointing Authority will report to the Secretary-Chief Examiner in such detail and on such forms as the Secretary-Chief Examiner may prescribe:

2.10.1 Every appointment, promotion, transfer, reinstatement, layoff, demotion, reduction, removal, discharge, suspension without pay, leave of absence without pay, change of position within a class or within an assignment title;

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

3. SECRETARY-CHIEF EXAMINER.

3.1 SECRETARY-CHIEF EXAMINER--APPOINTMENT. The Commission will appoint a Secretary-Chief Examiner from among qualified City employee(s) recommended by the City Manager. This position shall not be covered by Civil Service.

3.2 SECRETARY-CHIEF EXAMINER--DISCIPLINE. The Secretary-Chief Examiner may be subject to suspension, reduction, or discharge by the Commission in the same manner and subject to the same limitations as provided to members of the classified service. Upon such removal, Rule 3.1 applies.

3.3 SECRETARY-CHIEF EXAMINER--AUTHORITY. In addition to acting as Secretary of the Commission, the Secretary-Chief Examiner will:

3.3.1 Be the general manager and executive officer of the Commission;

3.3.2 Attend and record all meetings of the Commission; keep the records of the Commission and preserve all reports made to it. Record of each meeting shall be presented to the Commission in the form of minutes for approval or correction at the next regular meeting. Upon approval, the minutes shall be signed by the chairperson and countersigned by the Secretary-Chief Examiner and shall become a part of the permanent files of the Commission.

Delegate duties when necessary and supervise the work of the Commission, including preparing, conducting, and scoring examinations and maintaining the classification plan. Determine which examinations will be conducted, the minimum qualification 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 secretaries, and other persons he or she may deem necessary; after obtaining legal advice from the Commission's legal counsel, decide all questions relating to the eligibility of applicants, the admissibility of applicants to the examinations, and extension of time and all questions arising during the course of an examination; report before and after each examination to the Commission, including all appeals from rulings or appeals from any part of the examination.

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

3.3.4 Maintain a current list of all Police Civil Service positions in the classification plan and update records of specifications for each class;

3.3.5 Perform all other functions necessary for the proper carrying out of these rules and the provisions of law relating to the Police Civil Service System, and perform such additional duties as the Commission assigns from time to time.

3.4 REVIEW OF AND APPEAL FROM ACTIONS OR DECISIONS OF THE SECRETARY-CHIEF EXAMINER.

The Commission on its own motion or at the request of the affected employee may review or modify any action or decision of the Secretary-Chief Examiner. If such a request is made by an employee, it must be in writing setting forth with reasonable certainty the action objected to, the grounds supporting the request, and the relief sought and must be made within ten (10) days from the date of notice of such action unless a different period is established elsewhere in these rules. The Commission may thereupon conduct an investigation or grant a hearing on the matter or take such action, as it deems appropriate consistent with law and the Rules, including closure of the matter without further consideration.

4. DEFINITIONS

- 4.1 ACTUAL SERVICE. Time in which a given employee has been engaged under City Civil Service appointment in the performance of the duties of a position or positions, including absences with pay.
- 4.2 APPEAL OF DISCIPLINE. A request that the Commission review discipline imposed on an employee by the City. To be considered, the request must be made by the affected employee and comply entirely with these rules, including but not limited to process, timeliness and substance.
- 4.3 APPEAL OF SECRETARY'S DECISION. A request that the Commission review a decision of the Secretary-Chief Examiner. To be considered, the request must be made by the affected employee and comply entirely with these rules, including but not limited to process, timeliness and substance.
- 4.4 APPLICANT. Anyone who has filed an application to take a Civil Service examination.
- 4.5 APPOINTING AUTHORITY. The City Manager or designee.
- 4.6 APPOINTMENT.
- 4.6.1 APPOINTMENT – EMERGENCY. Appointment to serve in a position covered by these rules under emergency conditions for the duration of the emergency.
- 4.6.2 APPOINTMENT--PROVISIONAL. A limited appointment to a classified position for which there is no individual available for appointment from the certified eligible list.
- 4.6.3 APPOINTMENT--REGULAR. The appointment of an individual from the certified eligible list.
- 4.6.4 APPOINTMENT--TEMPORARY. A limited appointment for the purpose of performing work belonging in the classified service. The reduction of a regular employee is not a temporary appointment. Temporary appointment includes appointment for a specified term and emergency appointment. Such appointments may be from either a certified eligible list or from among other qualified persons.
- 4.7 BREAK IN SERVICE. A separation from Civil Service status with a loss of accumulated service credit as occasioned by a resignation, discharge, or retirement.
- 4.8 CANDIDATE. Any applicant who has completed, or is in the process of completing, a Police Civil Service examination.
- 4.9 CERTIFIED ELIGIBILITY LIST. A list of names certified by the Commission from which the Appointing Authority may fill a vacancy.

- 4.10 CERTIFY. To verify a list of names providing the ranked order of candidates tested and found eligible for employment or promotion.
- 4.11 CITY. The City of Lakewood.
- 4.12 CAUSE. A fair and honest basis for discipline, including suspension, demotion or discharge, exercised in good faith by the Appointing Authority based upon facts that (a) are supported by substantial evidence; (b) are reasonably believed by the Appointing Authority to be true; and (c) do not constitute any arbitrary, capricious or illegal basis.
- 4.13 CIVIL SERVICE EMPLOYEE. Any full-time employee who has Civil Service status.
- 4.14 CLASS. A position or group of positions designated by the Commission as having similar duties and responsibilities, so that the same examination may be used for each position in the group and the same salary range may be applied with equity. Class is also referred to as Rank.
- 4.15 CLASSIFIED SERVICE. Classified service means all positions in the City police service which are filled by full time employees, and which are subject to the provisions of these regulations and have not specifically been designated as exempt. Positions not meeting the definition of classified service are non-classified.
- 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 of the City of Lakewood. "Commissioner" means any one member of said Commission.
- 4.18 COMMISSIONED. Those positions in the City that have been granted a law enforcement commission by Council Action.
- 4.19 COMPENSATION. Compensation means any allowance, fee, salary, incentive pay, or wage paid to an employee or officer in the classified service for performing the duties and responsibilities of such person's position or office, and "total compensation" includes all applicable benefits.
- 4.20 CONTINUOUS SERVICE. Employment without interruption, except for absences on approved leave with pay or to serve in the armed forces of the United States.
- 4.21 DEMOTION. Removal of an employee, for cause, from a higher to a lower class of employment.
- 4.22 DISCHARGE. Termination, separation, dismissal, or removal from the service for cause.
- 4.23 ELIGIBLE. Anyone qualified for a given class through examination and placed on the proper eligible register.

- 4.24 EMPLOYEES. Any and all employees of the City of Lakewood, regardless of status or type.
- 4.24.1 EMPLOYEE—COMMISSIONED. Any employee who holds a position that has been commissioned with law enforcement authority by Council action.
- 4.24.2 EMPLOYEE--EXEMPT. Any employee in a position of employment that is not subject to Civil Service rules and regulations and who serves entirely at the discretion of the Appointing Authority. This definition is specifically for purposes of these rules and not intended to be applied in other settings, such as an analysis under the Fair Labor Standards Act (FLSA).
- 4.24.3 EMPLOYEE—FULL-TIME. Any employee who works a regular schedule of thirty-five or more hours per week.
- 4.24.4 EMPLOYEE—NON-COMMISSIONED. Any employee who holds a position that has not been commissioned with law enforcement authority by Council action.
- 4.24.5 EMPLOYEE--PROBATIONARY. A person appointed from a certification that has not yet completed the specified trial period of employment.
- 4.24.6 EMPLOYEE--PROVISIONAL. Any employee appointed to a classified position for which there is no current eligible list.
- 4.24.7 EMPLOYEE--REGULAR. Any employee who has been appointed from a certification and who has satisfactorily served the full probationary period. This is the only type of employee with rights under Rule 18.1.
- 4.24.8 EMPLOYEE--TEMPORARY. Any employee appointed to fill a temporary or short-term need.
- 4.25 EXAMINATION. The process of testing the fitness and qualifications of applicants for positions in a class.
- 4.25.1 EXAMINATION--OPEN. An examination open to any member of the public (including employees) meeting the requirements as stated in the examination bulletin.
- 4.25.2 EXAMINATION--CLOSED. An examination limited to employees meeting the requirements stated in the examination bulletin.
- 4.26 EXAMINATION BULLETIN. The examination bulletin includes class specification information such as essential duties and education and experience requirements, and outlines the examination process to establish an eligibility list for any given job class by identifying each of the requirements and graded portions of the process. The examination bulletin will be posted on the City website.

- 4.27 FINAL EXAMINATION SCORE. Total of earned exam score plus, as applicable, additional Veterans' preference scoring, City of Lakewood employment preference, and for entry level police officer examination only, education preference and City of Lakewood reserve police officer preference. All preference percentages are applied to the exam score as referenced in Rule 9.1.1.
- 4.28 INDIGENCY. Indigency is a basis for waiver of the application fee for any position and is established by submission of the proper City form attesting to the inability to pay. Falsification is grounds for removal from the application process, or, after hiring, discipline up to and including termination.
- 4.29 LATERAL ENTRY. Lateral entry means entry into the Police Department by an applicant already trained and experienced in law enforcement.
- 4.30 LAYOFF. The interruption of service and pay of any regular employee because of lack of work or funds.
- 4.31 NEW HIRE. Employees who have been hired from outside employment of the City of Lakewood and have not yet completed probation for the initial position for which they were hired.
- 4.32 NON-CLASSIFIED SERVICE. Positions not meeting the definition of Classified Service, 4.15.
- 4.33 NON-COMMISSIONED. Those positions not meeting the definition of Commissioned, 4.18.
- 4.34 OFFICIAL NEWSPAPER. The newspaper designated as official by the City.
- 4.35 POSITION. Any group of duties and responsibilities in the service of the City that one person is required to perform as full-time employment and that is included in the City budget.
- 4.36 POSITION--REGULAR. A position included in the official annual budget that is neither specified as seasonal or temporary employment nor limited for a period of less than the budget year; also any such position established during a given budget year, unless the Appointing Authority certifies to the Civil Service Commission that such position will not be continued in the succeeding year's budget.
- 4.37 PROBATION or PROBATIONARY. The status of an employee during a trial period following a regular appointment from an eligible register. This trial period is part of the examination process and is a working test during which an employee is required to demonstrate, by actual performance of the duties, fitness for the position to which he/she has been certified and appointed. During probation, the employee is subject to rejection by the appointing authority with neither a hearing before the Commission nor a right to appeal.
- 4.38 PROMOTION. The appointment of an employee to a higher class. Any change in employment other than by a temporary or provisional appointment from a lower class to any

position in any higher class in the same promotional series of classes as determined by the Commission constitutes a promotion.

- 4.39 PUBLIC NOTICE. Public notice means giving notice by posting in at least two conspicuous locations in a public place, or by publication in a newspaper, or both.
- 4.40 RANK. See CLASS.
- 4.41 RECLASSIFICATION. The allocation of a position to a different class in the classification plan.
- 4.42 REDUCTION IN RANK OR CLASS. The movement of an employee from a higher class to a lower class of employment for reasons other than cause.
- 4.43 REGISTER. A list of candidates for employment who have passed an employment examination, whose names may be chosen and certified by the Commission for submission to the Appointing Authority for consideration for employment.
- 4.44 REJECTION. Rejection means the separation of a probationary employee from the service.
- 4.45 REINSTATEMENT. Reinstatement of a regular employee to a position in a class in which the employee was a regular employee.
- 4.46 REINSTATEMENT REGISTER. A list of names of persons who were regular employees in a given class and who were laid off and are entitled to reinstatement in such class. A reinstatement register may also include former employees who have resigned or are on disability retirement who are capable, mentally and physically, for reinstatement.
- 4.47 RESIGNATION. A written statement by an employee of separation from the City service.
- 4.48 RETENTION CREDIT. The employee's service credit in a given class or position and any higher position in a series or any other credit that may be used by the Commission to determine the order of layoff under Rule 13.
- 4.49 RETIREMENT. The termination of employment for service or disability under applicable law.
- 4.50 RULES. The Civil Service Rules as properly adopted by the Police Civil Service Commission.
- 4.51 SUSPENSION. Temporary removal of an employee from employment with or without pay, for cause, or pending determination of charges against the employee that could result in demotion or discharge.
- 4.52 TRANSFER. A change in employment or status from a position in one class to a position in another class, not a promotion, reduction, demotion or reclassification.

- 4.53 VACANCY. A regular position not held by a regular or probationary employee.
- 4.54 VALIDATION. A process demonstrating job relatedness of examinations as outlined by the EEOC Uniform Guidelines.
- 4.55 VETERANS' PREFERENCE. Preference in examinations and employment, based on military service, as provided and defined by applicable laws.
- 4.56 WRITTEN NOTICE. Written notice, as required under these civil service regulations, means serving notice in writing either directly or by mail to the last known address. If by mail, the serving shall be deemed completed at the time the notice is deposited in the post office.

5. RULE MAKING.

- 5.1 AMENDMENT 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.
- 5.2 EFFECTIVE DATE OF RULES. All Rules and amendments become effective immediately upon their adoption by the Commission, unless the Commission specifies a later date.
- 5.3 COPIES OF RULES. A copy of these Rules and a copy of all subsequent rules or amendments will be sent as soon as practicable after adoption to the City Clerk and to each affected department of the City. A copy will be maintained in the office of the Commission for public inspection, and copies will be available for free public distribution.
- 5.4 EFFECT OF RULES. The terms and conditions of Police Civil Service employment are governed by these Rules and City ordinance. No employee may have a property interest in or as a result of these rules. These Rules, and such additional rules as the Commission may enact, regulate the mode and appointment of tenure in the Police Civil Service, and regular employees are subject to these Rules and amendments thereto.
- 5.5 LABOR AGREEMENT. Upon certification by a bargaining unit in the Department and subsequent labor contract being entered into between the City and such bargaining unit, the terms and conditions of the labor contract shall control. The employment relationship and these Rules shall have no effect when in conflict with an applicable labor contract.

6. CLASSIFICATION.

6.1 CLASSIFICATION PLAN. A class specification will be maintained for each class in the Civil Service System. A specification describes the class generally; distinguishes it from other classes, provides examples of typical duties of the class; and contains, when applicable, a statement of those qualifications for applicants for positions in the class.

6.2 CLASSIFICATION OF POSITIONS.

6.2.1 Each position in the classified service is classified at the direction of the Secretary-Chief Examiner and allocated to its appropriate class in accordance with the character, difficulty, and responsibility of its designated duties. Positions are 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 qualification may be required of incumbents; and
- (c) Similar tests may be used to select incumbents.

6.2.2 Compensation or salary is not a factor in determining the classification of any position or the standing of any incumbent.

6.2.3 In allocating any position to a class, the Commission considers the specification for the class as a whole. The general duties, specific tasks, responsibilities, required and desirable qualifications for such position, and its relationship to other classes are considered. The examples of duties in a specification may not be construed as exclusive or restrictive. An example of a typical task or a combination of two or more tasks, without relating to all parts of the specification, will not be used to determine that a position should be included within a class.

6.3 EFFECT OF CLASSIFICATION CHANGES ON INCUMBENT.

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

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

- (a) Whenever the essential functions of a position have significantly increased and are no longer in accordance with the class specification, the position may be reclassified to the appropriate class, or a newly created class with the approval of the City Manager.

An employee performing the duties of a position which requires creation of a new class will continue to perform the duties of his/her position under the new classification without examination for appointment, with the approval of the Civil Service Commission.

- 6.3.3 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, 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 temporarily as limited by the Commission until the employee is transferred to another position in the class in which he/she has regular standing.

7. APPLICATIONS AND APPLICANTS.

7.1 GENERAL REQUIREMENTS FOR FILING APPLICATIONS.

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

7.1.2 To file an application for examination, the applicant must:

- (a) Meet the requirements specified in these Rules and in the examination bulletin as of the closing day of the filing period; and
- (b) Produce evidence of education, training, experience, or any lawful requirement for a class, as directed by the Secretary-Chief Examiner.

For a promotional examination, the Secretary-Chief Examiner may permit regular employees and probationers to file for and take the examination for delayed eligibility if within thirty (30) days of accepting applications they meet lower specified minimum service requirements in the classes from which promotion is allowed.

7.1.3 Applicants must abide by the following time limitations:

- (a) All applications must be filed electronically within the time limit fixed in the official announcement of the examination. Paper applications are not accepted.
- (b) The Secretary-Chief Examiner may extend the time for filing applications as the needs of the service require, but the examination must then be re-advertised as originally advertised.

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

7.3 CONDITIONAL ADMISSION. If the Secretary-Chief Examiner reasonably doubts whether the applicant meets the minimum requirements, the Secretary-Chief Examiner 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-Chief Examiner before the applicant is enrolled on an eligible register.

7.4 REJECTION OF APPLICANT OR ELIGIBLE. The Secretary-Chief Examiner may reject an applicant for examination, withhold the applicant from a register or from certification, or remove from a register the name of an eligible under the following circumstances:

- 7.4.1 **FAILURE TO MEET REQUIREMENTS.** It is clear that the applicant does not meet the minimum requirements set forth in these Rules or in the public notice of the examination.
- 7.4.2 **FALSE STATEMENT.** The applicant has made a material false statement or has attempted any deception or fraud in connection with this or any other Civil Service examination.
- 7.4.3 **FAILURE TO APPEAR.** Any admitted or conditionally admitted applicant who fails to appear at a scheduled examination or any scheduled test or part thereof is considered to have failed that examination or test.
- 7.4.4 **FAILURE TO PASS THE PSYCHOLOGICAL OR BACKGROUND TEST UNDER RULE 8.11.1.** Any applicant previously cancelled from an eligibility register and notified of said cancellation pursuant to Rules 9.7 for failing the psychological examination and/or the background examination.
- 7.5 **DEBARMENT FROM EMPLOYMENT.**
- 7.5.1 No one who has been dismissed from the Civil Service for cause involving moral turpitude may reenter the Civil Service, and anyone dismissed for other good cause may reenter the Civil Service only by express consent of the Secretary-Chief Examiner.
- 7.5.2 Any applicant for appointment, promotion, reemployment, increase of salary, or other personal advantage who directly or indirectly pays or promises to pay any money or other valuable thing to anyone whomever for or on account of such actual or prospective advantage, is ineligible for any further employment in the Civil Service.
- 7.6 **NOTICE OF NONACCEPTANCE.** Anyone against whom action is taken under rule 7.4 will be notified promptly by the Secretary-Chief Examiner of the reasons therefore by written notice mailed to the applicant or eligible.
- 7.7 **ADMISSION TO EXAMINATION PENDING APPEAL.** The Secretary-Chief Examiner may admit to the examination anyone who has pending an appeal of an application that was not accepted, pending final disposition of the appeal, such admission to be without prejudice to either the City or the applicant.
- 7.8 **AMENDMENT OF APPLICATION.** On or before the last date for filing applications, the Secretary-Chief Examiner may permit any applicant, before or after acceptance of the application form, to amend the application or to file an amended application.
- 7.9 **APPLICATIONS NOT RETURNED.** All applications when completed and filed become the property of the Commission and thereafter may not be returned to the applicant.
- 7.10 **APPLICATION FEE.** The Secretary-Chief Examiner will determine the amount of the

application fee after reviewing examination-purchase and test-administration costs. Each applicant must pay the application fee when filing the application. Failure to pay the fee is grounds for rejecting an application. Such fee may be waived upon notice of indigency to the City.

8. EXAMINATIONS.

8.1 ORDERING EXAMINATIONS. An examination will be ordered whenever it is deemed to be in the best interest of the City. The Secretary-Chief Examiner will administer examinations as provided by these rules.

8.1.1 All employment tests and selection procedures will be properly validated for the positions and purposes for which they are used.

8.1.2 Vendors must provide documentation supporting the validity of any examinations administered as part of a Lakewood Civil Service process.

8.2 ANNOUNCING EXAMINATIONS. The examination bulletin for open examinations shall be posted on the City's website for a minimum of fourteen (14) calendar days. The examination bulletin for closed examinations will be posted on the City's intranet for a minimum of fourteen (14) calendar days.

8.3 DELAYED EXAMINATION. When a qualified applicant is unable to participate in a promotional examination due to active military service, the applicant will be allowed to take the examination upon return to work.

8.3.1 An applicant must notify the Secretary-Chief Examiner in writing within thirty (30) days of return to work, of an intent to participate in delayed testing. Testing will be scheduled as quickly as is appropriate.

8.3.2 There will be no change to examination materials or requirements utilized in the examination process missed by the applicant.

8.3.3 Upon successful completion, with a qualifying grade, of a delayed promotional examination, the applicant's name will be merged onto the appropriate eligibility list.

(a) Addition of an applicant's name to an eligibility list may affect the normal lifespan of that list, as provided in 9.8.1.

(b) Revised ranking due to delayed examination will not affect appointments made from the list prior to revision.

8.4 CHARACTER OF EXAMINATIONS. All examinations must be competitive, impartial, and practical in their character. Examinations will 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 is 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.

8.5 CONTENT OF EXAMINATIONS. Examinations may include oral or written tests, physical or performance tests, assessment centers, evaluations of training and experience, interviews,

any other suitable evaluation of fitness, or any combination of such tests. Examinations may evaluate education, experience, aptitude, knowledge, skill, physical condition, personal characteristics and other qualifications to determine the fitness of the candidates.

8.6 **QUALIFYING GRADE.** When any part or parts of an examination relate to qualification deemed essential to the proper performance of the duties of the class, the Secretary-Chief Examiner may determine the minimum-qualifying grade for each such part or parts. Failure to attain such grade disqualifies an examinee, without regard to overall examination grade and disqualifies the examinee from participation or rating in other parts of the examination.

8.7 **EXAMINATION PROTEST.**

8.7.1 Any protest against the scope, content, or practicality of any part of an examination must be filed in writing with the Secretary-Chief Examiner within three (3) days immediately following the administration of such part or within the time limit specified on the examination instruction sheet.

8.7.2 When a qualifying grade is required on any part of an examination, those who fail to receive the qualifying grade will be notified, and any protest or appeal must be filed in writing within five (5) days after the notices of results have been mailed.

8.7.3 Any protest against scoring or any allegation of clerical error in the final results of an examination must be filed in writing within five (5) days after the notices of results have been mailed.

8.7.4 The Secretary-Chief Examiner will consider all protests filed in accordance with this rule and will make any proper corrections. If authorized corrections apply to other examinees, the corrections will be made on all affected examination papers.

8.8 **CORRECTION OF CLERICAL ERRORS.** Any clerical error may be corrected by the Secretary-Chief Examiner upon discovery at any time during the life of the eligible register, but no such correction will effect an appointment from a certification made before the correction.

8.9 **REEXAMINATION.**

8.9.1 No one may be reexamined for the same class within one (1) year of the effective date of such examination, unless the Secretary-Chief Examiner determines that reexamination would be in the best interest of the City.

8.9.2 If an eligible takes a succeeding examination for the same class, the result of such examination does nullify any remaining eligibility already established.

An eligible who has successfully completed parts of an earlier examination may be excused from repeating that part in future examinations. This is at the sole discretion of the Secretary-Chief Examiner and the score for such part shall not be

modified for any reason.

8.10 EXAMINATION PAPERS. Examination papers of each eligible are maintained consistent with examination administration procedures and applicable record retention laws.

8.11 ADDITIONAL EXAMINATION.

8.11.1 Eligibles certified pursuant to Rule 9 are subject to medical, physical, or psychological examination and to such other examinations administered by the Police Department as authorized and approved by the Commission. Such other examinations include, but are not limited to, background examination and polygraph. Reports of such examination are filed with the Commission if the findings of the examination recommend that the eligible be rejected. The Secretary-Chief Examiner will consider such recommendation, may require further examination, and may order the eligible's name dropped from the eligible register.

8.11.2 The Secretary-Chief Examiner may designate a limited number of certified eligibles for additional examination as provided in Rule 8.9.1 to maintain an ability to certify registers in accordance with Rule 10.

8.12 MULTI PART EXAMINATION. When an examination consists of two or more parts, the Secretary may:

8.12.1 Set a minimum score to be required in any part of such examination. Any applicant who fails to attain such minimum score fails the entire exam and is not entitled to take the balance of the exam.

8.12.2 Assign weights to each part of the examination, with the examinee's earned examination score equaling the weighted average of the scores on each part.

8.12.3 Limit eligibility in subsequent exam parts to those scoring highest on a preliminary test or series of tests. But, the number of examinees must be established before the preliminary tests are administered.

8.13 NUMBER OF APPLICANTS--LIMITATIONS. The Secretary-Chief Examiner may restrict the number of qualified applicants to be examined at any one time 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.

8.13.1 RANDOM SAMPLE. The Secretary-Chief Examiner may provide for a random sample of qualified applicants to be drawn for an entry-level examination by so stating in the examination bulletin. Those qualified applicants whose names are not drawn for the initial group to be examined will be held on file. Should the initial group examined fail to yield an eligibility list of sufficient size to meet the needs for eligibles for that class or should the list become exhausted before it

expires, a sample from the remaining qualified applicants will again be drawn and the examination process repeated.

8.13.2 **MINIMUM SCORES.** If a minimum passing score is required, the Secretary-Chief Examiner determines the score before the examination posting.

8.14 CONTINUOUS TESTING

8.14.1 **CONTINUOUS TESTING ELIGIBILITY LIST.** The Secretary-Chief Examiner, following approval by the Commission, may establish any eligibility list for use by applicants tested through and certified for eligibility through this continuous testing process.

8.14.2 **CONTINUOUS TESTING DEFINED.** Continuous testing shall mean a written examination and/or a standardized physical fitness/agility test conducted pursuant to set and commonly applied standards whose results shall be valid for a period of one calendar year from the date of certification to a Continuous Testing Initial Eligibility list. Continuous testing may, at the discretion of the Commission, be offered through the Secretary-Chief Examiner or pursuant to a subscription testing agreement.

8.14.3 **CERTIFICATION.** Applicants certified pursuant to a continuous testing process shall be placed on a Continuous Testing Initial Eligibility list. Certification shall be in accordance with the rules and regulations of this Commission. As each applicant is placed in accordance with his or her scores and Veterans' preference scoring (if applicable) the placement of all others on the list shall be adjusted.

(a) An applicant on a certified list who was not eligible for Veterans' preference scoring at the time of application, may submit his/her DD214 and receive Veterans' preference scoring for the remainder of the period the candidate's name is on that list. The Secretary-Chief Examiner will adjust the candidate's score and adjust placement of all names on the appropriate list at the time the DD214 is received. Receipt of Veterans' preference scoring does not adjust the length of time the candidate's name remains on the eligibility list.

8.14.4 **ADDITIONAL TESTING.** Applicants placed upon an initial eligibility list shall be subject to such other testing processes as the Commission shall direct, including but not limited to oral boards or any other testing process conducted by the Commission or by a subscriber pursuant to Rule 8 - Examinations.

8.14.5 **REMOVAL OF NAMES.** The names of candidates certified to an initial eligibility list shall remain on the list until either certified to a secondary hiring list following an oral board or other testing as established by the Commission, the expiration of one year from the date of certification or until the candidate has been hired by another public safety organization. Names may be removed upon notification by the candidate, upon the written notification of another public safety employer or an entity providing subscription testing.

8.15 SUBSCRIPTION TESTING SERVICES

8.15.1 SUBSCRIPTION TESTING SERVICES AUTHORIZED.

The Secretary-Chief Examiner, following approval by the Commission, may enter into contracts with one or more Subscription Testing Services. The Commission recognizes that it does not have a monetary budget.

8.15.2 SUBSCRIPTION TESTING SERVICE – DEFINED.

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

8.15.3 PROCESS VERIFICATION.

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

8.15.4 ADDITIONAL TESTING.

Candidates qualified pursuant to a subscription testing service shall be subject to such additional testing as may be required by the Commission or the appointing authority. Such testing shall include, but not be limited to interviews, background, polygraph, and psychological testing.

9. REGISTERS AND ELIGIBILITY.

9.1 ESTABLISHMENT OF ELIGIBLE REGISTERS. After each examination under Rule 8.2, an eligible register for the class will be prepared on which the names of successful candidates are ranked as follows:

9.1.1 Relative rank is determined by the examination rating or grade, plus a percentage for Veterans' preference scoring, regular City of Lakewood employee status, and/or education preference, and/or City of Lakewood reserve police officer preference where applicable. Percentages are cumulative.

- (a) Veterans' preference scoring is applied upon receipt of DD214 in accordance with RCW 41.04.010.
- (b) Current non-probationary City of Lakewood employees holding regular status will receive five percent (5%) in addition to the examination grade.
- (c) An education preference shall be awarded to entry level police officer candidates who have received passing grades on examinations, and who have previously acquired a college degree from an accredited educational institution as follows: 5% for a Bachelor's degree; 2% for an Associate's degree. The maximum education preference that may be added to an exam score is 5%.
- (d) A City of Lakewood reserve police officer preference shall be awarded to entry level police officer candidates who have received passing grades on examinations and who have completed the City's reserve officer training program. 2% will be added to the exam score.

9.1.2 Priority of time of examination does not give any preference in rank on the register.

9.1.3 The preference in rank of eligibles having equal final general averages are determined as follows, in the order stated:

- (a) The one who qualifies for Veterans' preference scoring in accordance with Washington state law.
- (b) When the examination is comprised of two or more parts with separate grades:
 - (1) The highest grade on the most heavily weighted part of the examination; if a tie still exists, 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, if one is a regular City employee and the others are not, the regular City employee will be given preference.

(d) By lot.

9.1.4 If an applicant is permitted by the Appointing Authority to file for and take an examination for delayed eligibility, and if such applicant succeeds in the examination, eligibility is held in abeyance until the candidate meets the requirements for eligibility, which must be reported in writing. If otherwise eligible, the candidate's name is placed on the register in accordance with this Rule. Any such eligibility expires with that of other eligibles from the same examination.

9.2 RETURN TO ELIGIBLE REGISTER

9.2.1 An employee transferred or promoted from a civil service position to an exempt position will be returned to the open graded eligible register for the class previously held in the event of termination of the exempt appointment or an involuntary reduction in hours.

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

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

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

9.2.5 A former employee who has resigned or retired due to disability is governed by Rule 19.

9.2.6 Return to the open graded eligible register for a class previously held will result in placement at the top of the existing register.

(a) In the absence of an existing register, one will be created.

9.2.7 A former applicant, who has previously withdrawn his or her name from an eligible

register, may request return of his or her name to the same open graded eligible register. Such request must be made within one year of certification of the register, and requires approval by the Civil Service Secretary-Chief Examiner. Upon approval the applicant's name will be placed on the eligible register, based on overall test score, for the remaining period of certification.

9.3 APPOINTMENT WITHOUT EXAMINATION. Except as provided in 9.2 and 9.4, any return to the Civil Service shall be by examination only.

9.4 ESTABLISHMENT OF REINSTATEMENT REGISTERS.

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

9.4.2 Upon the request of an appointing authority, the Civil Service Commission may approve the certification of anyone on such a reinstatement register as eligible for appointment on an open competitive basis.

9.5 AVAILABILITY OF ELIGIBLES. Upon approval of the Secretary-Chief Examiner, the name of an eligible who submits a written statement restricting the conditions under which he/she is available for employment may be withheld from certifications that do not meet the conditions specified.

9.6 CANCELLATION OF ELIGIBILITY. Anyone's name may be removed from an eligible register:

9.6.1 For failure to successfully complete or meet the standards set for any part of the pre-employment process, including but not limited to, additional examination(s) and background investigations; or upon receipt of proof of material physical or mental disability, bad character or other unfitness, fraudulent conduct, or false statements by the eligible or failure to provide complete, accurate, and truthful information;

9.6.2 For false statements by others with the eligible's collusion, in connection with any application, examination for, or securing of an appointment;

9.6.3 For dismissal or resignation in lieu of discharge from any position, public or private, for any cause which would be a cause for discharge from City service, or for an unsatisfactory record of employment in the City service or with any other agency or organization;

9.6.4 Upon request of an Appointing Authority that an eligible has failed to respond to call or has refused to accept employment or promotion;

9.6.5 For failure to respond to the canvass of a register within fourteen (14) days from

such canvass;

9.6.6 For refusal to accept reemployment in a regular position;

9.6.7 For other material reasons; or

9.6.8 Upon being passed over five (5) times for original appointment during the life of an eligibility register.

9.7 CANCELLATION OF ELIGIBILITY--NOTICE TO ELIGIBLE. Should the Police Chief determine an eligible referred from the eligibility list to be non-responsive or unsuitable for employment, documentation supporting removal from the list will be presented to the Commission for review and action. A new referral will be forwarded to the Chief and the non-responsive or unsuitable candidate will remain inactive on the list until the Commission has taken final action. If removal from the list is approved, the Secretary-Chief Examiner will notify the applicant in writing of his/her removal for lack of responsiveness or unsuitability. If removal is not approved, the eligible will return to active status.

9.8 DURATION OF ELIGIBILITY REGISTERS.

9.8.1 Eligibility Registers. Except as provided below, each eligibility register is in effect for one (1) year from its date of certification.

(a) Upon request of the appointing authority, the Secretary-Chief Examiner may extend the eligibility register for two (2) terms of six (6) months each.

(b) Any eligibility list scheduled to expire within six (6) months of the date a candidate's name is added, following delayed testing as outlined in rule 8.3, will be automatically extended for six (6) months from expiration.

(c) Any eligibility register may be determined to have expired when, in the opinion of the Secretary-Chief Examiner and with the concurrence of the Commission, the number of eligibles is insufficient to ensure the City will benefit from the best pool of applicants possible.

(d) When, in the opinion of the Secretary-Chief Examiner and with the concurrence of the Commission, an eligibility register does not meet the demands of the service, but has not expired, the appointing authority may order examinations to provide additional eligibles.

(e) Should a new list be established, any eligibles remaining on the old list may be automatically transferred to the new list. Where the exam has not changed, the transferring eligible will be ranked according to the score from the previous exam. Where the exam has changed, the transferring eligible must take the new exam in order to be ranked on the new list.

(f) Any eligibility register shall be terminated automatically upon certification of an eligibility list from a new examination for the class.

9.8.2 Duration of Eligibility on Continuous Registers. For eligibility registers resulting from continuous testing, each person will remain on the list for an eligibility period of one (1) year from the date the candidate was first certified to the register. An eligible's name shall automatically be removed from consideration at the end of his or her one-year eligibility period.

(a) Where the examination has not changed; upon written request of the eligible and with the approval of the Chief, the Secretary-Chief Examiner may extend eligibility of the eligible to the continuous register for up to two (2) terms of six (6) months each.

10. APPOINTMENT AND REINSTATEMENT.

10.1 GENERAL PROVISIONS. Vacancies in the classified Civil Service are filled by temporary appointment, reinstatement, promotional appointment, assignment, original appointment, transfer, reduction, or demotion. In the absence of an appropriate register, the appointing authority may authorize a provisional appointment.

10.2 APPLICATION/EXAMINATION. The application and the examination papers of a certified eligible must be available for inspection by the Appointing Authority.

10.3 REGULAR APPOINTMENT. A regular appointment to fill a vacancy will be made from the names contained on an official certified register in accordance with Rule of Five (rule 10.7).

10.4 ORDER OF APPOINTMENT. Appointment to fill a vacancy shall be made from certified eligibility registers in the following order and as provided in this rule; Reinstatement, Promotional, Original.

10.4.1 ORDER OF REINSTATEMENT. If a vacancy is to be filled from the reinstatement register, the following shall be the order of appointment:

(a) Regular employees in the order of their class seniority. The regular employee on such register who has the most seniority for the reinstatement class shall be first reinstated;

(b) Probationers, with regard to length of service. The probationary employee on such register who was employed in the class longest, from which they were laid off, shall be reinstated first.

(c) Upon request from the appointing authority, the Secretary-Chief Examiner 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.

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

10.5 DEFERMENT OF APPOINTMENT. The appointing authority may defer appointment of an eligible upon the eligible's written request with satisfactory reason. Deferment will postpone appointment of such eligible until the next vacancy occurring after the eligible has notified the Secretary-Chief Examiner in writing and with the appointing authority's approval of such appointment.

10.6 RULE OF FIVE. The Secretary-Chief Examiner presents to the Chief or his/her designee the names of the top five available eligibles from the appropriate certified eligibility list for one vacancy. For a Police Officer vacancy, five (5) names from the entry level Police Officer eligibility list and five (5) names from the lateral level Police Officer eligibility list will be

presented.

10.6.1 **MULTIPLE VACANCIES.** If two (2) or more vacancies are to be filled, the Secretary-Chief Examiner presents to the Chief or his/her designee for the first vacancy, the names of the top five (5) available eligibles and an additional three (3) names for each concurrent vacancy thereafter (ie: for two (2) vacancies, the top eight names of available eligibles would be presented to the Appointing Authority; for three (3) vacancies, eleven (11), and so on). The vacancies are considered to be concurrent until a conditional offer is extended.

10.7 PROVISIONAL APPOINTMENT.

10.7.1 **WITHOUT REGISTER.** When there is no suitable eligible register from which certification can be made, the Chief may make a provisional appointment. A provisional appointment may be made for up to twelve (12) months and may be extended.

10.7.2 **WITH REGISTER.** All provisional employment in a class must cease at the earliest possible date and may not exceed thirty (30) days from the date of notice that a proper eligible register for such class is available. The Secretary-Chief Examiner may grant an extension upon written request by the Chief or his/her designee if such extension will not cause the provisional appointment to exceed twelve (12) months.

11. PROBATION.

11.1 **PROBATIONARY PERIOD.** After each appointment from an eligible register, the employee appointed serves a complete period of probation before the appointment is deemed complete. The probationary period provides a trial period during which the department may observe the performance of the probationary employee before the employee acquires Civil Service status.

11.2 **LENGTH OF PROBATIONARY PERIOD.** The period of probation is equivalent to twelve (12) months of full-time service following regular appointment from an eligible register and commencing on the specific appointment date exclusive of required attendance at the basic law enforcement academy which is required for employment as a law enforcement officer in the State of Washington or other required interruption of service. Minor absences due to vacations, annual military leave, illnesses, etc. do not interrupt the probationary period unless the absence is so excessive that the Secretary-Chief Examiner approves a departmental request for an extension of the probationary period.

11.3 **INTERRUPTION OF PROBATIONARY PERIOD BY MILITARY SERVICE.** A probationer who engages in active military service on an extended basis interrupts the probationary period. The employee may resume the probationary period from the time it was interrupted following return from military leave within the provisions of RCW Chapter 73.16.

11.4 **FAILURE OF PROBATION.** Any employee failing to satisfactorily complete any promotional probationary period shall be restored to the most recent previous class for which he/she qualifies.

11.5 **REMOVAL OF PROBATIONER.**

11.5.1 **WITHOUT CAUSE.** The Appointing Authority may discharge any probationer with or without cause. The Commission will not review the reasons for discharge, and no appeal shall be heard.

11.5.2 **PROCEDURE.** The Appointing Authority will notify the Commission of the removal of the probationer. Notice must be mailed to or personally served on the employee, and proof of notice must be filed with the Secretary-Chief Examiner.

11.5.3 **RIGHTS RETAINED.** A promotional probationer, unless terminated for cause, retains all civil service rights to the position from which appointed.

12. TRANSFER--REDUCTION.

12.1 TRANSFER.

12.1.1 The transfer of an employee within the same class and at the same level does not constitute a promotion in the service, and is not subject to Commission review or appeal.

12.1.2 An Appointing Authority may transfer an employee from one position to another position in the same class and department without prior approval.

12.1.3 An Appointing Authority may transfer a non-civil service employee into a vacant civil service position when all of the following conditions are met:

- (a) In lieu of layoff. A non-civil service employee would otherwise be laid off; and
- (b) classification requirements of the vacant civil service position are substantially similar to, or lower than, the class requirements of the position being eliminated; and
- (c) the transferring employee meets all requirements of the civil service position; and
- (d) the transferring employee has held a permanent position for a minimum of twelve (12) months and has a satisfactory performance record.

12.2 REDUCTION.

12.2.1 **AUTHORIZED.** As defined in Rule 4.42, a reduction is the movement of an employee from a higher class to a lower class of employment for reasons other than cause.

12.2.2 **APPLICABLE CLASSES.** A reduction may be approved for:

- (a) Any lower class in which the employee has acquired previous regular standing; or
- (b) Any lower class substantially similar to any lower class (in the employee's current class series) in the position classification plan.

12.2.3 **PROCEDURE.**

- (a) The reduction must be approved by the Appointing Authority and reported to the Commission.

- (b) The reduction takes effect on the date specified by the Appointing Authority.

12.2.4 EFFECT OF REDUCTION.

- (a) Upon the effective date, the reduction will be complete and the employee will have Regular Standing in the lower class to which he/she has been reduced.
- (b) A reduced employee may return to his/her former position only by examination and regular appointment or, in the event of a recovery from disability, appointment from a reinstatement register.

12.2.5 REDUCTION TYPES.

- (a) By Employee. A voluntary reduction may be sought by an employee for any vacant position in a class under Rule 4.45.
- (b) By Department.
 - (1) Employees With Standing. Rule 13, “Layoff”, governs involuntary reduction from a higher Civil Service class to a lower Civil Service class.
 - (2) Employees Without Standing An employee who is appointed from a civil service position to an exempt position has the right to return to the same or like class, in which he or she last held regular standing prior to exempt appointment, upon termination of the exempt appointment, unless such termination was for cause.

13. LAYOFF.

13.1 ORDER--MERIT. Layoff will be based on the objective merit of City employment as reflected in the City's performance evaluation system. Employees will be retained on the basis of job performance. Job performance will be determined by the Appointing Authority on the basis of relative qualification, past job performance evaluations and current job evaluations. Qualifications will be determined by the knowledge, abilities and skills required for a position and the employee's ability to perform the remaining work without further training. Only if an employee's service with the City cannot be distinguished by merit will the order of layoff be determined by length of City service.

13.2 ORDER. In a given class in a department, layoff proceeds in the following order:

13.2.1 Temporary or intermittent employees;

13.2.2 Provisional appointees;

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

(a) Promotional and reclassified probationers, who have passed their initial probationary period, shall be considered regular employees for the purposes of this section;

13.2.4 Regular employees based upon merit.

14. LEAVES OF ABSENCE.

14.1 RETURN FROM LEAVE. At the expiration of a leave of absence authorized by the City's Employee Policies and with the approval of the Appointing Authority, a regular employee resumes the same class of work with standing as determined by these Rules.

14.2 FILLING VACANCY. All employment caused by a leave of absence in excess of one (1) year is made under Rule 9.

15. RESIGNATION.

15.1 **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. Such determination may be made only after an employee's appeal and hearing under Rule 18. The Commission will conduct a hearing only after the resigned employee files a written petition with the Secretary-Chief Examiner within ten (10) days from the effective date of the resignation. If no such petition is filed within the ten (10) day limits, a resignation is conclusively presumed to have been made voluntarily and without duress or coercion.

15.2 **IMPLIED RESIGNATION.** The Appointing Authority may presume that any employee has resigned when the employee has been absent from duty without leave or authorization or has failed to report for duty for three (3) or more consecutive work days.

16. DISCIPLINE AND DISCHARGE.

16.1 SUSPENSION.

16.1.1 The Appointing Authority may suspend for cause a subordinate, with or without pay, for a period not to exceed thirty (30) days.

16.1.2 A suspension with pay or a suspension without pay less than three (3) days shall not be subject to Commission review.

16.1.3 The Commission will only review suspension in response to an appeal properly filed pursuant to these rules.

16.1.4 Movement of an employee within the City's pay plan shall not be considered a suspension or demotion. Employee appeals of movement within the pay plan shall be subject to the City's Employee Policies.

16.2 DEMOTION--DISCHARGE.

16.2.1 The Appointing Authority may discharge an employee or demote an employee to a lower class for cause. An employee so demoted loses all rights to the higher class, but may test at the next opportunity to be placed on any new list established for the higher class.

16.2.2 The Secretary-Chief Examiner must be satisfied that the demoted employee is able to perform the duties of the lower class. The demoted employee may be required to 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 provides in the demotion order, solely to determine whether the employee is capable of satisfactorily performing the functions and duties of such class.

16.2.3 Upon the satisfactory completion of the prescribed trial period or upon the effective date of the demotion if no such period is required, the demoted employee will have the status, rank and standing of the lower class to which demoted, and such class and department will be deemed to be his/her regular class and department for purposes of these Rules until an authorized change is made.

16.3 DISCIPLINE--CAUSE. Cause is defined as a fair and honest reason for discipline, including suspension, demotion or discharge, exercised in good faith by the Appointing Authority and based upon facts that (a) are supported by substantial evidence; (b) are reasonably believed by the Appointing Authority to be true; and (c) are not for any arbitrary or capricious or illegal reason. The Appointing Authority may discipline for any cause. Any discipline lower in severity than a suspension of less than three (3) days will not be subject to Commission review.

17. PREDISCIPLINARY HEARING.

17.1 PREDISCIPLINARY HEARING--REQUIRED. The Appointing Authority must provide and arrange for a predisciplinary hearing before demoting or discharging a subordinate.

17.2 PREDISCIPLINARY HEARING--STANDARDS/NOTICE OF DISCIPLINE.

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

17.2.2 The employee may have legal counsel present at a predisciplinary hearing.

17.2.3 The department's explanation of the department's evidence at the predisciplinary hearing must sufficiently apprise the employee of the basis for the proposed action. This Rule, however, may not be construed to limit the employer at any subsequent hearing from presenting a more detailed and complete case, including presenting witnesses and documents that were not available at the predisciplinary hearing.

17.2.4 Should the Appointing Authority determine to demote or discharge the employee after the predisciplinary procedure, it must give written notice to the employee. The notice must include the charges against the employee and a general statement of the evidence supporting the charges.

18. HEARINGS.

18.1 HEARINGS--APPEALS.

18.1.1 Any regular employee who is demoted or terminated may appeal such action to the Commission, and shall be so notified at the time such action is taken by the appointing authority.

18.1.2 Except as otherwise provided in these Rules or by applicable law, any regular employee who is adversely affected by an alleged violation of the Civil Service Rules may bring such violation to the attention of the Commission, however, relief may only be granted in response to a properly filed appeal in accordance with these rules. All other matters shall be disposed of with a recommendation from the Commission.

18.1.3 This section does not apply to employees other than regular employees.

18.2 PETITION FOR HEARING. A petition for a hearing before the Commission shall be in writing, signed by the petitioner, give the petitioner's mailing address, the action from which the petitioner appeals and, in detail, the facts and the reasons upon which the petitioner's case is based. Such petition shall be filed with the Secretary-Chief Examiner within ten (10) days of the receipt by the petitioner of the notice of action of the appointing authority to which the employee objects.

18.3 A properly filed appeal prevents implementation of the discipline in question pending any ruling of the Commission.

18.4 Applicable rules relating to appeals to the Commission are to be included in any notice of discipline issued subject to these rules.

18.5 EXHAUSTION OF ADMINISTRATIVE REMEDIES.

18.5.1 An employee shall exhaust available administrative procedures prior to any appeal to the Commission.

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

18.6 AUTHORITY OF STAFF. The Commission's attorney has the authority to make orders on preliminary matters, including motions for discovery and to compel discovery, continuance, and protective orders. Such orders may be appealed to the Commission.

18.7 APPEALS--INITIAL REVIEW. The Secretary-Chief Examiner reviews all appeals to determine whether the employee has timely filed an appeal and whether the action appealed

is a final action. Upon determining that the appeal is not timely, the Secretary-Chief Examiner issues a written order of dismissal with prejudice, setting forth the basis of the dismissal. In the case of an action that is not final, the appeal must be stayed until such action becomes final. Such orders may be appealed to the Commission.

- 18.8 APPEALS--NOTICE OF HEARING. Upon receipt of a notice of appeal, the Commission staff forwards a copy of the notice to other affected parties. As soon as practicable thereafter, a hearing before the Commission is set, with each party to be afforded not fewer than twenty (20) days notice of such hearing. All parties may agree to waive the notice provisions and time limits provided by this Rule.
- 18.9 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 before the matter goes to hearing. Upon resolution of a matter before hearing, any party may request the dismissal of the matter. A stipulation signed by both parties must be submitted to the Commission before such dismissal.
- 18.10 SERVICE OF PROCESS--PAPERS.
- 18.10.1 The Commission staff may 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. The party filing the notice, document or paper must serve every other paper.
- 18.10.2 All notices, documents or papers served by either the Commission or a party must be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Papers may be served in person, by registered or certified mail, or by regular mail with written acknowledgment of such mailing attached to the papers. Written acknowledgment must be by affidavit of the person who mailed the papers or by certificate of any attorney or the Secretary-Chief Examiner.
- 18.10.3 Service upon parties is complete upon personal delivery or upon properly stamped and addressed deposit in the mail system (U.S. or intra-city).
- 18.10.4 Papers required to be filed with the Commission are deemed filed only upon actual receipt of the papers by the Commission staff at the Commission office. All papers except the original appeal notice must be served with the original and three copies. Briefs and memoranda must be filed with the Commission at least three (3) days before any hearing involving matters discussed in the brief or memoranda.
- 18.10.5 An appellant or petitioner must notify the Commission in writing of any change in his/her mailing or street address and telephone number. Failure to so notify the Commission constitutes a waiver of service and notice under these Rules.
- 18.11 HEARINGS – LEGAL COUNSEL. Both the Appointing Authority and the petitioner shall have the right to be represented by legal counsel at all stages of the Commission’s

investigation and hearing. In addition, the Commission may, in its discretion, retain independent counsel at City expense to assist the Commission in the conduct of the hearing process.

18.12 DISCOVERY.

18.12.1 Parties to a proceeding must provide each other reasonable access to and discovery of all relevant information concerning the matter before the Commission subject to rules of privilege. Any questions concerning relevancy or access are resolved by order of the Secretary-Chief Examiner.

18.12.2 Upon the failure of any party to comply with an order of the Secretary-Chief Examiner compelling discovery, the Secretary-Chief Examiner will schedule the matter before the Commission for review and determination of appropriate sanctions.

18.13 SUBPOENAS.

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

18.13.2 Upon application of any party or his/her representative, the Secretary-Chief Examiner will issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The party requesting the subpoena is responsible for having the subpoena properly served. Requests for subpoenas must be submitted to the Commission offices at least three (3) days before the hearing.

18.13.3 Service is made by serving a copy of the subpoena on the person named therein.

18.13.4 The person serving the subpoena must make proof of service by filing the subpoena at the Commission office, and if such service has not been acknowledged by the witness, the person serving the subpoena must make an affidavit of service.

18.13.5 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:

- (a) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue; or
- (b) Condition denial of a motion to quash or modify upon just and reasonable conditions.

18.14 **BURDEN OF PROOF.** At any hearing on appeal from a demotion or termination, the Appointing Authority bears the burden of showing that its action was in good faith for cause. At any other hearing, the petitioner or appellant bears the burden of proof by preponderance of the evidence. The decision of the Appointing Authority is entitled to substantial weight, and will not be set aside unless found by the Commission to be (a) unsupported by substantial evidence; (b) not in good faith; or (c) arbitrary, capricious or illegal.

18.15 **EVIDENCE.**

18.15.1 Subject to other provisions of these rules, all competent and relevant evidence is admissible. In passing upon the admissibility of evidence, the Commission may consider but is not bound to follow the rules of evidence governing civil proceedings in the superior courts of the state of Washington.

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

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

18.15.4 At any hearing before the commission when documentary exhibits are to be offered into evidence, copies must be furnished to the opposing party, to each Commission member and to the Secretary-Chief Examiner.

18.15.5 Parties are encouraged to stipulate to the admissibility of documentary exhibits. To further this end, parties will request such stipulation no later than three (3) days before the hearing, barring unusual circumstances. The party to whom the request is made must respond no later than one (1) day before the hearing.

18.15.6 An employee has the right to appear before the Commission with or without counsel and/or any applicable formal labor representation and to be heard in the employee's defense. The employee may not be represented by a co-worker, friend or other person not licensed to practice law or authorized by the relevant Union.

18.16 **SUMMARY PROCEEDINGS.**

18.16.1 **AUTHORIZED.** The Commission will hear appeals from suspensions of three (3) days or less in a summary manner. The Commission may provide for other or similar procedures in any appeal of a suspension, demotion or discharge in order to efficiently manage the appeal.

18.16.2 **PROCEDURE.** Pursuant to a schedule to be established by the Secretary-Chief Examiner in consultation with the Commission's attorney, the parties shall:

- (a) submit the testimony of witnesses in summary content;
- (b) compile and submit any exhibits;
- (c) file three (3) copies of witness statements and exhibits to the Secretary-Chief Examiner, and serve the other party; and
- (d) file three (3) copies of objections to any of the testimony and exhibits, and a list of rebuttal witnesses including a summary of rebuttal testimony with the Secretary-Chief Examiner and serve the other party.

The Commission will admit testimony and exhibits to which no objection is taken without further proof made or permitted. Time for opening statements will be limited. Only direct evidence objected to or identified in rebuttal and such redirect examination as permitted by the Commission will be heard, all subject to cross examination.

18.16.3 **RESERVED RIGHTS.** The procedure in this Rule 18.12 shall not limit or restrict the Commission in its management of individual cases coming before it.

18.17 **DELIBERATION.** The Commission may deliberate in closed (executive) session when considering a disciplinary or other quasi-judicial case. Only the Secretary-Chief Examiner and legal counsel to the Commission may be present during deliberation. No one may convey any information or opinion to the Commission concerning any matter on appeal, other than in open hearing.

18.18 **DECISION.** In any appeal, the Commission must issue a written decision, including findings of fact, conclusions of law, and an order, to each party or counsel of record for each party.

18.19 **REMEDIES.** The Commission may issue such remedial orders as it deems appropriate only as the result of an appeal. The Commission may issue recommendations in response to matters that do not rise to the level of an appeal.

18.20 **RECONSIDERATION.** A party may move for reconsideration by the commission only on the basis of newly discovered evidence. Such evidence must be new in the sense that it was not available to be discovered prior to the hearing. Such motion must be filed with the Commission within ten (10) days of the Commissioner's decision. Such motion for reconsideration is decided on affidavits absent special showing that testimony is necessary.

18.21 **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.

19. RETIREMENT AND DISABILITY.

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

19.2 REINSTATEMENT AFTER DISABILITY RETIREMENT. The Secretary-Chief Examiner reviews any report from a retirement system and the recommendation of the Appointing Authority showing that a former employee who is on disability retirement has regained his/her health and is again employable. Upon the Appointing Authority being satisfied that the employee is physically and mentally competent to perform the duties of the regular class, the Secretary-Chief Examiner will:

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

19.2.2 Place the employee's name on the reinstatement register for an available class and department.

Any appeal under this Rule shall be governed by Rule 3.4.

19.3 DISCHARGE FOR CAUSE--EXCEPTION. The provisions of 19.1 and 19.2 do not apply when an employee is discharged from the service under Rule 16, whether or not the employee qualifies for a disability retirement.

20. MISCELLANEOUS.

20.1 REPEALS AND SAVINGS. All matters are subject to these rules, except as provided by the Ordinances of the City.

20.2 COMPUTATION OF TIME.

20.2.1 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 time begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, a Sunday, or a City legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, a Sunday, nor a City legal holiday. When the period of time prescribed or allowed is five (5) days or less, intermediate Saturdays, Sundays and legal holidays are excluded from the computation.

20.2.2 Any period of time except for the stated period of time set forth in Rules 18.2 may be extended by the Secretary-Chief Examiner 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 Commission offices before the running of the applicable time period.

20.2.3 The date of notice for the purpose of these Rules is the date on which notice of an action is (a) posted in the Commission's office at City Hall, (b) mailed, or (c) delivered personally to a party to a proceeding.