



CITY OF BLACK DIAMOND

Civil Service Rules and Regulations

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Black Diamond, WA 98010
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Amendment I - 8.11 PROMOTIONAL EXAMINATIONS, 1/29/2009
Amendment II - 10.2 HIRING PROCEDURE, 8/7/2009
Amendment III - 7.11 REAPPLICATION PROCESS, 1/2/2014

CITY OF BLACK DIAMOND CIVIL SERVICE RULES AND REGULATIONS
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1. GENERAL PROVISIONS

- 1.1 **AUTHORITY AND APPLICATION.** These rules are promulgated under the authority granted by Chapter 41.12 RCW, Civil Service for City Police, and City ordinance. They apply to proceedings before the Civil Service Commission.
- 1.2 **SCOPE AND PURPOSE.** These rules govern the continuing administration of the Civil Service System of the City. Their purpose is to assure that the City Civil Service System is administered in accordance with all applicable ordinances of the City and that all proceedings before the Commission are conducted in an orderly, fair and timely manner. No employee may have a property interest in or as a result of these rules.
- 1.3 **PRESUMPTION OF VALIDITY.** The 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 purposes 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 purposes 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 a 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 comprises three (3) members. In the necessary conduct of its work, the Commission meets on the first Thursday of each month, at 11:00 a.m. in Council Chambers, 25510 Lawson St., Black Diamond, WA 98010, unless there is no pending business requiring Commission action. Notice of special 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 two (2) members of the Commission constitutes a quorum. No action of the Commission is effective unless two (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--VICE CHAIR. At the first regular meeting in January of each year, the Commission will elect one of its members to serve as Chair and another member to serve as Vice-Chair. The Chair and Vice-Chair will serve for a term of one (1) year, unless replaced by a majority vote of all Commissioners. Should a Chair or Vice-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 and/or Vice-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. But with the concurrence of two (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 unless, in the exercise of reasonable diligence, a basis for challenge is unknown to a party before the hearing commences.
- 2.5 COMMISSIONERS--ALTERNATES.
- 2.5.1 Alternate Commissioners have the right to participate in the debate and the deliberations of the Commission on the regular business of the Commission. Alternate Commissioners may not be part of the Commission quorum and may not move action or vote on matters coming before the Commission, except as provided in Rule 2.5.2

- 2.5.2 If a Commissioner is unable to participate in a hearing on employee discipline, the Chair will appoint an Alternate Commissioner to serve in the place of the disqualified or disabled Commissioner. The Alternate Commissioner is entitled to participate fully in such proceedings and is authorized to vote on the action before the Commission.
- 2.5.3 In the event that there are insufficient Commissioners to form a quorum at a regularly scheduled meeting, the Chair may appoint an Alternate Commissioner to serve in the place of an absent Commissioner at that meeting. The Alternate Commissioner is entitled to participate fully in the meeting and is authorized to vote on actions before the Commission for the duration of the meeting. For these purposes, a Commissioner arriving more than 10 minutes past the designated meeting start time will be deemed absent.
- 2.6 If, as a result of disqualification(s) pursuant to Rule 2.4, a lawfully constituted quorum is no longer available, the City Administrator will appoint one or more of the Alternates to serve on the Commission and the hearing will proceed.
- 2.7 OFFICE HOURS. The office address of the Commission is City of Black Diamond, 24301 Roberts Drive./P.O. Box 599, Black Diamond, WA 98010. The regular hours for receipt of Commission correspondence and notices are 8:30 a.m. to 5:00 p.m., Monday through Friday (excluding City holidays).
- 2.8 PUBLIC RECORDS. Public records of the Commission are available for inspection and copying during the regular office hours of the Commission staff. No fee is charged for inspection of public records. Inspection is permitted during office hours in a space provided by the Commission staff, under its supervision, and must be accomplished without excessive interference with the essential functions of the Commission. Copies will be made at actual cost or as provided by City Ordinance. These rules will be printed for free public distribution.
- 2.9 RECORD OF PROCEEDINGS. The Commission will 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 the 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, the Commission, or a prevailing party, at the discretion of the reviewing court or the Commission, may recover costs of transcription. Upon appeal or review, the Secretary will arrange transcription and certification of a record of proceedings.
- 2.10 REPORTS-APPLICANTS, ELIGIBLES, EMPLOYEES.
 - 2.10.1 Each applicant, eligible and employee will keep the Commission informed, by written notice to the Secretary, of his/her current address and telephone number and will report any change of name through marriage or otherwise.

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

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

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

2.11.2 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 ("Secretary") from among qualified City employee(s) recommended by the City Administrator.
- 3.2 SECRETARY--DISCIPLINE. The Secretary 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--AUTHORITY. In addition to acting as Secretary of the Commission, the Secretary will:
- 3.3.1 Be the general manager and executive office of the Commission;
 - 3.3.2 Delegate duties when necessary and supervise the work of the Commission, including preparing, conducting, and scoring examinations and maintaining the classification plan;
 - 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 the budget for the Commission, approve accounts; and generally administer the expenditure of funds appropriated by the City Council for the operation of the Commission;
 - 3.3.5 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;
 - 3.3.6 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.
 - 3.3.7 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 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.

- 3.4.1 The Commission on its own motion may review or modify any action or decision of the Secretary.
- 3.4.2 Any person adversely affected by any action or decision of the Secretary may request that the Commission revise or modify such action or decision. Such request 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) calendar 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.
 - 3.4.2.1 The Commission shall review the written request during an executive session immediately following the next regularly scheduled meeting that is held at least thirty (30) days after receipt of the written request.
 - 3.4.2.2 Upon review of the written request, the Commission shall consider the timeliness of the request, the evidence articulated in the request and the supporting documentation the person adversely affected received from the Secretary regarding the action or decision. Based upon such documentation, the Commission may summarily dispose of the issue or may grant a hearing on the matter or take such action, as it deems appropriate consistent with law and the Rules.
 - 3.4.2.3 The Commission shall notify, in writing, the person making the request whether the request is granted or denied within ten (10) working days of its decision.
 - 3.4.2.4 If the Commission grants a hearing on the matter, the person requesting action by the Commission bears the burden of proof by clear, cogent and convincing evidence that the Secretary's action or decision was (a) unsupported by substantial evidence; (b) not in good faith; or (c) arbitrary capricious or illegal.

4. DEFINITIONS

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

- 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 ALLOCATION. See 4.34, "Reclassification".
- 4.3 APPLICANT. Anyone who has filed an application to take a Civil Service examination.
- 4.4 APPOINTING AUTHORITY. The City Administrator or designee.
- 4.5 APPOINTMENT.
 - 4.5.1 APPOINTMENT--REGULAR. The appointment of a certified eligible.
 - 4.5.2 APPOINTMENT--PROVISIONAL. A limited appointment to classified position for which there is no current eligible register.
 - 4.5.3 APPOINTMENT--TEMPORARY. A limited appointment 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 appointment for a specified term and emergency appointment. Such appointments may be from eligible registers for from among other qualified persons.
- 4.6 ASSIGNMENT. Movement of an employee to a position that carries additional salary and additional limited responsibilities and is within the scope of the specification or the class from which the assignment is made.
- 4.7 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".
- 4.8 CANDIDATE. Any applicant who has completed, or is in the process of completing; a Civil Service examination.
- 4.9 CERTIFIED ELIGIBLE LIST ("Certification"). A list of names from an eligible register transmitted by the Commission to an Appointing Authority from which such Appointing Authority may fill a vacancy.
- 4.10 CERTIFY. To verify to the Appointing Authority that a list of names of candidates for employment has been selected from the list of persons tested and found eligible for employment.

- 4.11 CITY. The City of Black Diamond.
- 4.12 CAUSE. A fair and honest reason 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) are not for any arbitrary, capricious or illegal reason.
- 4.13 CIVIL SERVICE EMPLOYEE. Full Time fully commissioned employee.
- 4.14 CIVIL SERVICE REGISTER. See 4.23, "Eligible Register".
- 4.15 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.
- 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 said Commission. "Alternate Commissioner" means any one Alternate Commissioner appointed to the Commission.
- 4.18 CONTINUOUS SERVICE. Employment without interruption, except for absences on approved leave with pay or to serve in the armed forces of the United States.
- 4.19 DEMOTION. Removal of an employee, for cause, from a higher to a lower class of employment.
- 4.20 DEPARTMENT. The police services division of the City of Black Diamond Public Safety Department.
- 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 placed on the proper eligible register; also, "Certified Eligible".
- 4.23 ELIGIBLE REGISTER. A register or list of successful examinees for a given class from which certification may be made to fill vacancies in such class; also, "Register of Eligibles".
- 4.24 EMPLOYEE. Anyone holding a position in the Civil Service System of the City.
 - 4.24.1 EMPLOYEE--REGULAR. Any employee who has been appointed from a certification and who has satisfactorily served the full probationary period.

4.24.2 EMPLOYEE--TEMPORARY. Any employee appointed to fill an emergency, temporary or short-term need.

4.24.3 EMPLOYEE--PROBATIONARY. A person appointed from a certification that has not yet completed the specified trial period of employment.

4.24.4 EMPLOYEE--PROVISIONAL. Any employee appointed to a classified position for which there is no current eligible register.

Note: A regular employee is the only employee with rights under Rule 18.1.

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 meeting the requirements as stated in the official bulletin announcing the examination.

4.25.2 EXAMINATION--CLOSED. An examination limited to employees meeting the requirements stated in the official bulletin announcing the examination.

4.26 EXAMINATION BULLETIN or OFFICIAL BULLETIN. An examination announcement (or job description) containing basic information about the class or position, the requirements for filing, how to apply, and other pertinent information. The examination announcement will be posted at City Hall and in other suitable locations.

4.27 FINAL EXAMINATION SCORE. Total of earned exam score plus additional veterans' and education incentive preference points for which an applicant is eligible.

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

4.29 OFFICIAL NEWSPAPER. The newspaper designated as official by the City or by the Commission.

4.30 POSITION.

4.30.1 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.

- 4.30.2 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.
- 4.31 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.
- 4.32 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.
- 4.33 QUIT. Any volunteer separation of an employee from the City service without acceptance of a resignation by the Appointing Authority.
- 4.34 RECLASSIFICATION. The allocation of a position to a different class in the Classification Plan.
- 4.35 REDUCTION. The movement of an employee from a higher class to a lower class of employment for reasons other than cause.
- 4.36 REGISTER. A list of candidates for employment who have passed an employment examination, whose names may be chosen and certified by the Commission for submission to the Appointing Authority for consideration for employment. See 4.23, "Eligible Register".
- 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 REGISTER. A list of names of persons who were regular employees in a given class and who were laid off and are entitled to reinstatement in such class. A reinstatement register may also include former employees on disability retirement who are capable mentally and physically for reinstatement.
- 4.39 RESIGNATION. A written request by an employee for separation from a class or from the City service. To be valid, such request 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 that may be used by the Commission to determine the order of layoff under Rule 13.
- 4.41 RETIREMENT. The termination of employment for service or disability under applicable law.
- 4.42 RULES. The Civil Service Rules adopted under Rule 5.
- 4.43 SECRETARY. The Secretary as defined in Rule 3.
- 4.44 STANDING--REGULAR. The full Civil Service status of a regular employee.
- 4.45 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.
- 4.46 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.
- 4.47 TRIAL PERIOD A period of one month of actual and active service beginning on the effective date of transfer, demotion, reduction or reinstatement, as further prescribed by the rules specifically applicable thereto. The Commission upon the request of the Appointing Authority may extend a trial period.
- 4.48 VACANCY. A regular position not held by a regular or probationary employee, or a regular position that is reasonably anticipated to no longer be held by a regular or probationary employee with 180 days.
- 4.49 VETERANS' PREFERENCE. Preference in examinations and employment, based on military service, as provided and defined by applicable laws.

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 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 rule 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.
- 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.

6. CLASSIFICATION.

6.1 CLASSIFICATION PLAN. A class specification will be prepared and maintained for each class in the Civil Service System. Such specification will describe the class generally; distinguish it from other classes, provide 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.

6.2 CLASSIFICATION OF POSITIONS.

6.2.1 Each position in the classified service are 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 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 qualification 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 re-titled 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 in accordance with these rules.

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; 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 official examination bulletin as of the closing day of the official filing period; and
- (b) Produce evidence of education, training, experience, or any lawful requirement for a class, as directed by the Secretary.

When a promotional examination is designated in the official bulletin, the Secretary 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) Applicants must file applications for examination with the Secretary during office hours and within the time limit fixed in the official announcement of the examination. (Upon written evidence of extenuating circumstances acceptable to the Secretary, late applications may be accepted.) Applications received by mail in the office of the Commission must be postmarked on or before the closing date.
- (b) The Secretary may extend the time for filing applications as the needs of the service require, but the examination must then be re-advertised in the official newspaper.

7.2 SPECIAL REQUIREMENTS.

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

- 7.2.2 When the official bulletins so designate, the Secretary may permit an applicant to file not more than six (6) months under the specified minimum age on an open examination and not more than one (1) year under the specified experience on a closed examination. A successful candidate will have delayed eligibility until the required minimum age or experience is attained.
- 7.3 **CONDITIONAL ADMISSION.** If the Secretary reasonably doubts 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 register.
- 7.4 **REJECTION OF APPLICANT OR ELIGIBLE.** The Secretary 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 clearly appears 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 the examination or test.
- 7.4.4 **FAILURE TO PASS THE PSYCHOLOGICAL OR BACKGROUND TEST UNDER RULE 8.14.1.** Any applicant previously cancelled from an eligibility register and notified of said cancellation pursuant to Rules 9.5 for failing the psychological examination and/or the background examination as allowed in Rules 8.14.1.
- 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.
- 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 of the reasons therefore by either oral notice at the time of the applicant's filing the application or by written notice mailed to the applicant or eligible.
- 7.7 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.
- 7.8 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. The amended application must be re-filed with the Secretary by the last date for filing applications.
- 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 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.
- 7.11 REAPPLICATION PROCESS.
- 7.11.1 Applicants may apply for entry-level positions through the Public Safety Testing. Applicant's most recent score will only be considered.
- 7.11.2 Applicants may apply for lateral positions only once in a 6 month period.
- 7.11.3 Applicants may apply for promotional positions during any open application period regardless of previous application.

8. EXAMINATIONS.

- 8.1. CONDUCT MAY BE DELEGATED. The Secretary shall arrange for the use of buildings and equipment for the conducting of examinations. The Commission may conduct and score the examination or any part thereof, or may name any qualified person or agency to do so. All tests, including tests of physical fitness, shall be practical and shall consist only of subjects that will fairly determine the capacity of applicants to perform the duties of the position to which appointment is to be made. All examinations shall be proctored by the Secretary or at least one member of the Commission; except that proctoring by a member of the Commission is not required when testing is done by a Subscription Testing Service.
- 8.2. QUALIFYING GRADE AND LATERAL SCREENING/SCORING. In all oral examinations, the minimum grade or standing for which eligibility may be earned shall be 70%. The cut off point may be established at a higher score to meet other criteria. Failure in one part of the examination shall be grounds for declaring the applicant as failing the entire examination. Notice of results of screening and acceptance or rejection for placement on the Lateral Eligibility Lists shall be sent to applicants.
- 8.3. ORAL EXAMINATION PROCEDURE. Applicants obtaining a qualifying grade on the written examination may be notified to appear before an Oral Examination Board selected by the Commission.
- 8.4. PHYSICAL AGILITY TESTS. RCW 41.12.040(2) provides that tests to fill positions may include tests of physical fitness and/or manual skill. If such tests are to be used to determine fitness for the position, the Secretary must be involved in the makeup, administration, and scoring of such examinations.
- 8.5. PREPARATION OF AN ELIGIBILITY LIST. The names of persons successful in the examination shall be arranged in order of their earned ratings.
- 8.6. PREFERENCE FOR VETERANS. A preference status shall be accorded to veterans by adding to the veteran's final cumulative score a percentage of such score in accordance with the requirements of RCW 41.04.010. The term veteran means any person who satisfies the definition in RCW 41.04.005.

If a police officer candidate claiming veterans preference also has education and/or reserve preference, the police officer candidate will have the highest preference percentage added to the cumulative score. Preference points are not cumulative.

- 8.7. PREFERENCE FOR SERVICE AS POLICE RESERVE. In an open graded examination for police officer, candidates who receive a passing grade and who have served satisfactorily at least two (2) consecutive years as a police reserve in the Black Diamond Police Department shall have five percent (5%) of their final examination grade added to their final cumulative score.

If a police officer candidate claiming police reserve preference also has education and/or veterans preference, the candidate will have the highest preference percentage added to the cumulative score. Preference points are not cumulative.

8.8. EDUCATION PREFERENCE. In an open graded examination for entry level police officer, a preference status shall be accorded to candidates who have received passing grades on their written and oral board examinations, and who have previously acquired a college degree from an institution accredited by either the Northwest Association of Schools & Colleges (NASC) or any other regional accreditation association formally recognized by NASC, as follows:

BA or BS	10% of their final cumulative score
A, AS, or AAS	5% of their final cumulative score

In the case where a candidate has one or more college degrees, veteran's preference, and reserve preference, or any combination thereof, the candidate shall receive the incentive preference with the highest percentage only. Preference points are not cumulative.

8.9 NOTIFICATION OF RESULTS. Each applicant shall be notified of the results of the examination, his or her final earned rating, and the relative position on the Eligibility List.

8.10. REVIEW OF EXAMINATION PAPERS AND CHALLENGES. Within seven (7) working days after notice of his or her final score has been mailed, any applicant may review his or her examination papers and have his or her score reviewed and corrected if an error is identified. Should an applicant wish to challenge any part of the examination, he or she shall submit to the Secretary, within fifteen (15) days after notice of his or her final score has been mailed, authoritative written proof of the validity of his or her claim. All such challenges shall be considered by the Commission. If the Commission is satisfied as to the validity of any such challenges, it shall order an appropriate revision of the examination scores, a restructuring of the Eligibility List, and the mailing of notices to candidates on the Eligibility List indicating the action ordered and its effect on their individual standing.

8.11. PROMOTIONAL EXAMINATIONS. Promotions shall be made solely on merit, efficiency, and fitness, which shall be ascertained by competitive examination and impartial investigation. All applicants for promotion must be regular employees in the Classified Service of the City of Black Diamond (except as provided otherwise in this section) and must possess the minimum qualifications or other specifications of the class to which promotion is sought. The selection process shall conform to Rule 10, and the probationary period contained in Rule 11, shall apply. However, if the applicant meets the basic requirements for the position, the probationary period requirement is waived. Provided, that should the Commission certify, in accordance with Rule 11, fewer than five (5) eligible individuals, the Appointing Authority shall have the option of selecting from among those certified or requesting the Commission to conduct another examination, either (1) among those individuals who did not attain the minimum score or (2) among any and all individuals who possess the minimum qualifications. In any event, those persons previously certified shall remain on the Eligibility List. A promotion Eligibility List shall remain in effect one (1) year.

9. ELIGIBILITY LISTS

- 9.1. ORDER OF NAMES ON A LIST. Names on the Eligibility Lists shall be in order of preference according to the final earned ratings of the examination, including veterans' preference and Black Diamond Police Department Reserve credits and education incentive, except that employees laid off from a position in that class shall be given preference over new applicants in inverse order of lay-off. When two or more persons have equal claim to a position on an Eligibility List, except for laid-off candidates whose position on an Eligibility List is governed by 12.2, their names shall be arranged according to the time and date of receipt of application. Candidates certified to the Appointing Authority under the Rule of Five, and not selected for appointment, shall remain on the Eligibility List in the order of their earned points.
- 9.2. EFFECTIVE LIFE OF AN ELIGIBILITY LIST. Eligibility Lists shall become effective upon attestation thereof by the Secretary that the list was legally prepared and represents the relative ratings of the names appearing thereon. Entry Level Police Officer Eligibility Lists, Lateral Police Officer Eligibility Lists and Reserve Academy Police Officer Eligibility Lists shall remain in effect for a maximum of one year. Provided that any list may expire:
- (1) When the number of persons thereon still available for appointment is less than five (5); or,
 - (2) When such list is revoked pursuant to Section 9.3. A new Entry Level or a new Reserve Academy Eligibility List with more than five (5) names may be extended by action of the Commission for not more than six (6) additional months. Names appearing on either list by virtue of lay-off shall remain effective for two (2) years.
- 9.2.1. REMOVAL OF LATERAL CANDIDATES FROM ELIGIBILITY LISTS. The Commission shall remove a lateral candidate's name from a Lateral Eligibility List after one (1) year or when a lateral candidate no longer remains eligible or available for employment.
- 9.3. REVOCATION OF A LIST. Eligibility Lists may be revoked and another examination ordered, only upon approval of the Commission, when such action is deemed advisable on account of fraud, errors, or for obviously inappropriate standards prescribed in connection with the examination or the plainly inadequate results obtained therefore, or due to the opening of an application period for the purpose of creating a new list. No lists shall be altered or revoked except upon written notice to all persons whose standing may be affected and upon entry of the reasons therefore in the minutes of a regular or special Commission meeting.
- 9.4. REMOVAL OF NAMES FROM A LIST. The Commission may remove a candidate's name from an Eligibility List for the following reasons:

- (1) The Commission shall make an availability inquiry of candidates on a regular basis but not later than six (6) months following the last Commission action affecting the Eligibility List. Candidates responding negatively to an availability inquiry, or failing to respond within ten (10) days of the mailing of such inquiry, or responding but subsequently failing to comply with background investigations and further hiring procedures, shall be removed from the Eligibility List.
- (2) The Commission may remove a candidate's name from an Eligibility List if at any stage of the hiring procedure he or she fails to meet the criteria for appointment set forth under Rule 10. In this instance, the Appointing Authority shall provide the Commission with written request for the removal of a candidate's name from a list and the reasons for such request.
- (3) The Commission shall remove a Lateral candidate's name from a Lateral Eligibility List after one (1) year or when a candidate no longer remains eligible or available for employment.

When a candidate's name is removed from a list, the Commission shall cause a written notice to be sent to the candidate advising the action that has been taken and the reasons for such action. The written notice shall be sent by certified mail, return receipt requested, to the candidate's last known address. The candidate shall have the right to file a petition for reinstatement to the list by sending written request to the Civil Service Secretary within ten (10) working days of receiving the written notice. The name of the candidate so removed may be reinstated only if satisfactory explanation of the circumstances is made to the Commission. If the reinstatement occurs after another person has been hired, the reinstated name shall be placed in an appropriate position on the Eligibility List based on his or her earned ratings, but shall not affect the appointment.

10. APPOINTMENTS

- 10.1. **BASIS FOR APPOINTMENTS.** All appointments within the Classified Service shall be made solely on merit, efficiency, and fitness, which shall be ascertained by open competitive examination and impartial investigation.
- 10.2. **HIRING PROCEDURE.** Whenever a vacancy exists, the Appointing Authority may 1) request the names of the top five (5) candidates on the Entry Level Eligibility List; 2) request the names from the Lateral Eligibility List.

When the request is for the Entry Level Eligibility List, or the top five (5) candidates will be certified to the Appointing Authority on separate and respective Lists in accordance with the Rule of Five. The Commission shall thereupon certify the names of such persons highest on the Entry Level, and Reserve Academy Eligibility Lists who are willing to accept employment.

When two or more entry level candidates accept employment at the same time, seniority is given to the candidate highest on the eligibility list. If two or more entry level candidates score the same on the eligibility list, seniority is given to the candidate highest on the examination that is weighted more.

When the request is for the Lateral Eligibility List, the entire list will be certified to the Appointing Authority.

In all circumstances, the Appointing Authority shall conduct an appropriate background investigation and consider the experience, training, education, and other relevant criteria regarding the various candidates.

It shall be a mandatory prerequisite for employment for an applicant to:

- (1) Meet the LEOFF minimum medical health standards if the applicant is eligible for LEOFF I; or
- (2) Meet the Medical Selection Standards & Guidelines, developed by the Systems Design Group for the Washington State Criminal Justice Training Commission, which are adopted by reference; and
- (3) Meet the Pre-employment Physical Fitness Screening Test Standards, which are adopted by reference; and
- (4) Such other minimum requirements as stated in Section 7.2. Failure to meet such standards prior to an offer of appointment shall result in removal from the applicable Eligibility List. The Appointing Authority is further empowered to by-pass the Rule of Five and may select anyone on the applicable Eligibility List to comply with the provisions of the City's Affirmative Action Policy.

10.2.1. **BACKGROUND INVESTIGATION CRITERIA.** A candidate's name may be removed from an Eligibility List if it is determined through the background investigation that a candidate possesses or has demonstrated any of the following qualities or tendencies during prior employments or in his or her personal life:

- (1) Incompetency, inefficiency, or inattention to or dereliction of duty;
- (2) Insubordination; discourteous treatment of the public, or a fellow employee, or any other act of omission or commission that would tend to injure the public service; or any other willful failure on the part of the candidate to properly conduct himself;
- (3) Mental or physical unfitness for the position;
- (4) Dishonest, disgraceful, immoral, or prejudicial conduct;
- (5) Any other act or failure to act which, in the judgment of the Civil Service Commissioners, is sufficient to show the candidate to be an unsuitable, undesirable, or unfit person to be employed in the Classified Service.

10.3. **FAILURE TO RESPOND.** Candidates failing to comply with pre-appointment investigations as requested by the Appointing Authority, or failing to answer a notification of appointment within five (5) days, or failing without due cause to accept appointment when offered, excluding a provisional, emergency, or temporary appointment, shall be deemed to have declined appointment. If a candidate accepts appointment within the period outlined above and then fails without due cause to report for duty within one (1) day of the reporting date specified in the notice, he or she shall be deemed to have declined appointment. Any person so declining appointment shall also be permanently dropped from the Eligibility List on which his or her name appears unless he or she presents satisfactory cause to the Commission for his or her action or failure to act.

10.4. **PROVISIONAL APPOINTMENT.** The Appointing Authority may make provisional appointments. As soon as possible following a provisional appointment, the Commission shall announce and conduct an examination and shall certify the five (5) highest eligible names for regular appointment. No provisional appointment shall be continued for longer than four (4) months and no provisional appointee shall be appointed more than twice in the same year unless he or she qualifies by competitive examination and is appointed in the regular manner. Time spent as a provisional appointee shall not be credited to the probationary period or be utilized for computing any privilege accruing under Civil Service law or these regulations.

- 10.5. EMERGENCY APPOINTMENT. To meet the immediate requirements of an emergency condition that threatens life or property, the Appointing Authority may employ any person or persons whom he or she may be legally empowered to appoint without restriction of Civil Service law and these regulations. Such employment shall be limited to the duration of the emergency period and is not to exceed sixty (60) days under any circumstances. Time spent as an emergency appointee shall not be credited to any probationary period or be utilized for computing any privilege accruing under Civil Service law or these regulations.
- 10.6. APPOINTMENT TO FILL A TEMPORARY VACANCY. A temporary vacancy exists when a member of the Classified Service is granted a leave of absence or is temporarily assigned to duties with another agency or is on an extended sick or disability leave, and the Appointing Authority has reasonable grounds to believe the member will return to service. The Appointing Authority is authorized to make an appointment to fill a temporary vacancy under the following conditions:
- (1) The appointee shall be certified as having successfully completed the Basic Law Enforcement Academy of the Washington State Criminal Justice Training Commission.
 - (2) The appointment shall be for a term not to exceed nine (9) months.
 - (3) The nine-month appointment may be extended in additional increments, each increment not to exceed six (6) months, with the approval of the Civil Service Commission.
 - (4) Time spent as a temporary appointee shall not be credited to any probationary period or be utilized for computing any privilege accruing under Civil Service law or these regulations.

11. PROBATIONARY PERIOD

- 11.1. **LENGTH OF PERIOD.** No entry level or lateral appointee shall attain regular status in a position until they have satisfactorily completed a probationary period with the City of Black Diamond of twelve (12) months following certification by the State of Washington Criminal Justice Training Commission. Re-employed persons who have formerly acquired regular status in the class shall not be subject to probation unless two (2) years have elapsed since their former employment with the City of Black Diamond Police Department.
- 11.2. **TERMINATION OF A PROBATIONER.** During the probationary period the Appointing Authority, at his or her discretion, may terminate the employment of a probationary employee. Written notice of such termination shall be given the probationer and a copy shall be forwarded to the Commission.
- 11.3. **ATTAINMENT OF PERMANENT STATUS.** The Commission shall notify the Appointing Authority fourteen (14) days prior to the completion of the probationary period. At the end of the probationary period, the Appointing Authority shall report to the Commission on the probationer's service and efficiency. No salary or other compensation shall be paid for the services of any probationer following expiration of the probationary period until the Appointing Authority has filed a written statement with the Commission that the performance of the probationary employee is satisfactory and that his or her retention in the service is desired.
- 11.4. **CANCELLATION OF PROMOTION DURING PROBATIONARY PERIOD.** An appointee who has his or her promotion canceled during the probationary period shall be restored to the position from which he or she was promoted.

12. TRANSFER--REDUCTION.

12.1 TRANSFER.

12.1.1 The transfer of an employee does not constitute a promotion in the service, and is not subject to Commission review.

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 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.

12.2 REDUCTION.

12.2.1 **AUTHORIZED.** As defined in Rule 4.35, 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 previously regular standing, if there has been no intervening forfeiture;
- (b) Any lower class substantially similar to any lower class (in the employee's current class series) in the position classification plan; or
- (c) Employees seeking a return to employment or reemployment from a disability to a vacant position in another permissible class or department for which the employee qualifies.

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, or following satisfactory completion of any trial period, 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 AVAILABLE.

- (a) By Employee. A voluntary reduction may be sought by an employee for any vacant position in a class under Rule 13.3.
- (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. Rule 14, "Leaves of Absence", governs an employee's return from an exempt position to a Civil Service position.
 - (2) Employees Without Standing. When an employee is reduced from an exempt position, the employee may within ten (10) days of the end of employment in the exempt position petition the Commission in writing for placement on a register for a class for which the employee is deemed eligible. The Commission may consider the employee's experience, the record of City employment, or such other factors as it deems in the best interest of the System. The Commission's decision is permissive and discretionary, and an employee has no claim or cause for denial of placement on a register.

12.2.6 The Commission may, in its judgment and discretion, provide in the order granting or approving any reduction that the employee 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 solely to satisfy the Commission that the employee is capable of satisfactorily performing the functions and duties of such position or class. But, the Commission may by its order for cause, at any time during the running of a prescribed trial period, either extend, shorten, modify or waive in whole or in part the duration or balance of such period.

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);
 - 13.2.4 Regular employees based upon merit;
 - 13.2.5 The Secretary may grant permission to lay off out of the regular order, upon a showing by the Appointing Authority of a necessity therefore in the interest of the efficient operation of the department.
- 13.3 REDUCTION IN LIEU OF LAYOFF. At the time of any layoff, a regular employee may be provided an opportunity by the Appointing Authority to accept reduction to the next lower class in the department. An employee so reduced is entitled to credit for any previous regular service in the lower class.

14. LEAVES OF ABSENCE.

- 14.1 RETURN FROM LEAVE. At the expiration of a leave of absence authorized by the City's Employee Guidelines 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 9.2.

15. RESIGNATION.

- 15.1 HOW SUBMITTED. Resignation of any employee from the Service must be made in writing and filed with the Secretary after approval by the Appointing Authority.
- 15.2 WITHDRAWAL OF RESIGNATION. The Secretary may permit the withdrawal of a resignation only upon a written request filed within twelve (12) months from the effective date of the resignation and if such request for withdrawal bears the favorable recommendation of the Appointing Authority.
- 15.3 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 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.
- 15.4 IMPLIED RESIGNATION. The Appointing Authority may presume that any employee has impliedly resigned when the 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 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 registered or certified mail, or by regular mail with written acknowledgment of such mailing attached to the notice, to the employee's address as filed with the Secretary under Rule 2.10.1. A resignation order does not take effect if, prior thereto, the employee reports for active duty, applies for restoration or reinstatement, or otherwise notifies the Appointing Authority and such notice in the judgment of the commission rebuts the presumption of resignation.
- 15.5 RETURN TO ELIGIBLE REGISTER FOLLOWING RESIGNATION. See Rule 9.2.

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 for less than five (5) days shall not be subject to Commission review.

16.1.3 Any deprivation by the Appointing Authority of any vacation or other paid leave or compensatory time-off is deemed to be a suspension without pay and is subject to the above provisions.

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 Guidelines.

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. If the employee does not have standing in the lower class, demotion may not displace any regular employee or probationer.

16.2.2 The Secretary 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 following illustrate adequate causes for discipline, but do not constitute an exhaustive list. The Appointing Authority may discipline for any other cause.

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

- 16.3.2 Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, any other act or omission tending to injure the public service, or any other willful failure on the part of the employee to properly conduct himself/herself;
- 16.3.3 Mental or physical unfitness for the position that the employee holds;
- 16.3.4 Dishonest, disgraceful, or prejudicial conduct;
- 16.3.5 Drunkenness or use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid, or preparation when the use thereof interferes with the efficiency or mental or physical fitness of the employee or that precludes the employee from properly performing the function and duties of any position under the Civil Service;
- 16.3.6 Conviction of a felony or conviction of a misdemeanor involving moral turpitude;
- 16.3.7 False or fraudulent statements or fraudulent conduct by an applicant, examinee, eligible, or employee, or such actions by others with his/her collusion;
- 16.3.8 Willful or intentional violation of any lawful and reasonable regulation, order or direction made or given by a superior officer;
- 16.3.9 Willful or intentional violation of any of the provisions of these Rules; or
- 16.3.10 Any other cause, act or failure to act that, under law or these Rules, or in 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.

¹Employees are subject to the City's Employee Guidelines and its Drug and Alcohol Policy as well as to state and federal laws governing alcohol and drug use.

17. PREDISCIPLINARY HEARING.

17.1 PREDISCIPLINARY HEARING--REQUIRED. The Appointing Authority must provide and arrange for a pre-disciplinary 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 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 pre-disciplinary hearing.

17.2.3 The department's explanation of the department's evidence at the pre-disciplinary 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 pre-disciplinary hearing.

17.2.4 Should the Appointing Authority determine to demote or discharge the employee after the pre-disciplinary 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.

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

18. HEARINGS.

18.1 HEARINGS--APPEALS.

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

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 appeal such violation to the Commission.

18.2 APPEALS--TIME--FORM. A notice of appeal must be filed with the Secretary at City Hall within ten (10) calendar days of the action that is the subject of the appeal. The notice of appeal must 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 must also briefly describe the facts giving rise to the appeal and concisely state the reason for the appeal. Forms provided by the Secretary may be used for such notice but are not required.

18.3 EXHAUSTION OF ADMINISTRATIVE REMEDIES.

18.3.1 An employee shall exhaust available administrative procedures before appeal to the Commission.

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

18.4 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. The Commission's attorney may also conduct pre-hearing and settlement conferences (to encourage resolution of contested matters), issue subpoenas, and note depositions.

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

- 18.6 APPEALS--NOTICE OF HEARING. Upon receipt of a notice of appeal, the Secretary 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) working days notice of such hearing. Working days shall be defined as Monday through Friday from 8:30 a.m. to 5:00 p.m., excluding legal holidays. All parties may agree to waive the notice provisions and time limits provided by this Rule.
- 18.7 APPEALS--AUTHORITY OF COMMISSION. 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 shall be submitted to the Commission before such dismissal.
- 18.8 SERVICE OF PROCESS--PAPERS.
- 18.8.1 Papers required to be filed with the Commission are deemed filed upon actual receipt of the papers by the Secretary at City Hall. The Secretary may 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 upon the Commission and all affected parties.
- 18.8.2 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.
- 18.8.3 Service upon parties is complete upon personal delivery or upon properly stamped and addressed deposit in the mail system (U.S. or intra-city).
- 18.8.4 All papers except the original appeal notice must be served with the original and five (5) copies. Briefs and memoranda must be filed with the Secretary at least ten (10) working days before any hearing involving matters discussed in the brief or memoranda. Documentary evidence is not required to be filed but, may be presented at the hearing.
- 18.8.5 An appellant or petitioner must notify the Secretary in writing of any change in his/her mailing or street address and telephone number. Failure to so notify the Secretary constitutes a waiver of service and notice under these Rules.

18.9 DISCOVERY.

18.9.1 Parties to a proceeding must provide each other reasonable access and discovery to 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 Commission's attorney.

18.9.2 Upon the failure of any party to comply with an order of the Commission's attorney compelling discovery, the Secretary will schedule the matter before the Commission for review and determination of appropriate sanctions.

18.10 SUBPOENAS.

18.10.1 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.

18.10.2 Upon application of any party or his/her representative, the Secretary 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 Secretary at least ten (10) working days before the hearing.

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

18.10.4 The person serving the subpoena must make proof of service by filing the subpoena with the Secretary at City Hall, and if such service has not been acknowledged by the witness, the person serving the subpoena must make an affidavit of service. Failure to file proof of service does not affect the validity of service.

18.10.5 In addition to filing proof of service with the Commission, once service is made, a copy of the subpoena and proof of service shall be provided to all affected parties.

18.10.6 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.

18.11 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.

18.12 EVIDENCE.

18.12.1 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.

18.12.2 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.

18.12.3 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.

18.12.4 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.

18.12.5 Parties are encouraged to stipulate to the admissibility of documentary exhibits. To further this end, parties will request such stipulation no later than ten (10) working days before the hearing, barring unusual circumstances. The party to whom the request is made must respond no later than five (5) working days before the hearing.

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

18.13 SUMMARY PROCEEDINGS.

18.13.1 AUTHORIZED. The Commission will hear appeals from suspensions of five (5) days or more 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.

18.13.2 **PROCEDURE.** Pursuant to a schedule to be established by the Secretary 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 five (5) copies of witness statements and exhibits to the Secretary, and serve the other party; and
- (d) File five (5) 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, 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.

18.13.3 **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.

18.14 **DELIBERATION.** The Commission may deliberate in closed (executive) session when considering a disciplinary or other quasi-judicial case. Only the Secretary 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.

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

18.16 **REMEDIES.** The Commission may issue such remedial orders, as it deems appropriate.

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

18.18 **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 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 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 19.2 shall be governed by Rule 3.4.

19.3 DISCHARGE FOR CAUSE--EXCEPTION. The provisions of this rule do not apply when an employee is discharged from the service under Rule 16, whether or not the employee receives 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 and 18.3 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 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.