

# **CITY OF BAINBRIDGE ISLAND**

## **CIVIL SERVICE RULES**

Amended and Restated  
February 2, 2016



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- 2.3 RULES OF ORDER — *Robert's Rules of Order* shall be the final authority on all questions of procedure and parliamentary law not otherwise provided by these rules. However, with the concurrence of three commissioners, such rules may be waived or modified.
- 2.4 CHALLENGING A COMMISSIONER — Any challenge to a commissioner sitting at a hearing shall be made by an interested party prior to the commencement of a hearing. The commission shall review and rule on the challenge prior to proceeding with the hearing. Failure to raise a timely challenge shall constitute a waiver of the challenge by the party unless, in the exercise of reasonable diligence, a basis for challenge is unknown by a party prior to commencement of a hearing.
- 2.5 COMMISSIONER — CHALLENGE — NECESSITY — If, as a result of a disqualification pursuant to rule 2.4, there is no longer a quorum available, then, of necessity, the disqualified commissioner(s) shall return and proceed with the hearing.
- 2.6 OFFICE LOCATION — The address of the Civil Service Commission is 280 Madison Avenue North, Bainbridge Island, Washington 98110.
- 2.7 PUBLIC RECORDS — Public records of the commission shall be available for inspection and copying during the regular office hours of the commission's staff. No fee will be charged for inspection of public records. Inspection will be permitted during office hours in a space provided by the commission staff and under its supervision, and must be accomplished without excessive interference with the essential functions of the commission. Copies will be provided at the cost established by the City's Public Records Act administrative rules.
- 2.8 RECORD OF PROCEEDINGS — The commission shall keep a record of its proceedings. The record of the commission shall not include a written verbatim report of proceedings unless ordered by the commission or the City. The commission may retain a court reporter, or use audio and/or video recording equipment, to record all or part of a proceeding. In addition, a party to a proceeding, at his/her own expense, may have a court reporter record all or part of a proceeding. On appeal or review, costs of transcription may be recovered by the commission, or a prevailing party, at the discretion of the reviewing court or the commission. Upon appeal or review, transcription and certification of a record of proceedings shall be arranged by the secretary.
- 2.9 REPORTS OF STATUS CHANGES — The chief of police shall promptly report to the secretary, in such detail and on such forms as the secretary may prescribe, each appointment, transfer, promotion, demotion, reduction, layoff, reinstatement, suspension, leave of absence, return to duty, assignment, change of position within a class or within an assignment title, change of title, change of compensation, rejection of an applicant, or failure to accept appointment by a person who has been certified, and the secretary shall promptly report all such events to the commission.
- 2.10 TELEPHONIC ATTENDANCE — any or all commissioners may participate (including voting) in a regular or special meeting by, or conduct the meeting through the use of, any means of telephonic, video, Internet-based, or other remote communication technology so long as all commissioners participating can hear each other during the meeting. A commissioner participating in a meeting by this means is deemed to be present in person at the meeting.
- 2.11 LEGAL COUNSEL — The city attorney shall serve as attorney for the commission; provided that the commission may request that the city attorney retain independent counsel to

advise and assist it if the commission determines that the city attorney has a conflict of interest, or the appearance of such a conflict, in connection with any matter before or question being considered by the commission, or that the city attorney is for any reason unable to provide adequate legal services to the commission. If the city attorney elects not to retain independent counsel, the commission reserves the right to seek a court order directing the appointment of independent counsel.

- 2.12 NOTICE — In connection with all notices or communications sent by the secretary or the commission to any person pursuant to these Rules or in connection with the affairs of the commission, such notices or communications may be sent by First Class US Mail, or by email, at the discretion of the secretary or the commission.

### **RULE 3 SECRETARY-CHIEF EXAMINER**

- 3.1 SECRETARY-CHIEF EXAMINER — APPOINTMENT — Pursuant to Section 2.28.080 of the Bainbridge Island Municipal Code, the city manager shall designate a member of the paid staff of the city acceptable to the commission to serve as the secretary-chief examiner (hereinafter, “secretary”). In the event that no member of the city’s paid staff is acceptable to the commission, then the commission reserves the right to petition the city council for authorization to hire a secretary that is not a member of the paid staff of the city.
- 3.2 SECRETARY — REPLACEMENT — Pursuant to the Bainbridge Island Municipal Code, Section 2.28.080, civil service procedures shall not be applicable to the hiring of the secretary, nor shall civil service protections be extended to the secretary. Should the commission determine that the secretary is no long acceptable to the commission, the city manager shall designate a replacement secretary acceptable to the commission.
- 3.3 SECRETARY — AUTHORITY — The secretary shall at all times be under the exclusive control and direction of the commission on all commission matters. Notwithstanding any terms herein to the contrary, all discretion and authority granted to the secretary under these Rules (whether or not expressly stated herein) shall be subject to the commission’s exclusive direction and approval. In addition to acting as administrative secretary of the commission, the secretary shall:
- 3.3.1 Be the general manager of the commission, be responsible to the commission on all matters related to the business of the commission, and be responsible for directing the activities of any personnel serving as staff to the commission;
  - 3.3.2 Oversee the preparation, conduct, and scoring of examinations, and maintenance of 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 Approve accounts, and administer generally the expenditure of funds appropriated for the operation of the commission;
  - 3.3.5 Classify all civil service positions, 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 shall 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 examiners, and other persons as the commission may deem necessary; decide all questions relating to the eligibility of applicants, the admissibility of applicants to the examinations, extension of time and all questions arising during the course of an examination; prepare and submit a report prior to and after each examination to the commission, together with a report on all appeals from rulings or appeals from any part of the examination;

- 3.3.7 Perform all other functions necessary for the proper execution of these rules and the provisions of law relating to the City Civil Service System, and such additional duties as may be assigned from time to time by the commission;
- 3.3.9 Verify that the Subscription Testing Service provides qualified testing resources that are content valid and job related; and
- 3.3.10 Maintain and preserve (in accordance with applicable law) all files and other records relating to the work of the commission, and keep all such records under secure lock and key, or otherwise secured through appropriate information technology measures, with access restricted only to the commission and its members (subject to the requirements of the Public Records Act and other applicable laws). No employee, agent or elected official of the City other than the secretary shall have access to such records without prior permission from the commission (subject to the requirements of the Public Records Act and other applicable laws).
- 3.3.11 Upon application by the appointing authority make a threshold determination regarding whether an applicant has been disbarred from employment and should be removed from an eligibility list.

### 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 the commission to review such action or decision. Such request shall be in writing setting forth with reasonable specificity 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 established otherwise in these rules. The commission shall thereupon, if in its opinion good cause is shown, conduct a hearing thereon, or decide to reverse, modify or affirm such action or decision.

### 3.5 CONFLICT OF INTEREST — The commission may take all necessary and proper actions to minimize conflicts of interest in all activities involving the secretary. Such actions include, but are not limited to the following:

The commission may petition the city council for appointment of a pro tem secretary in connection with any matter before or question being considered by the commission in the event of any actual or apparent conflict of interest, or if the secretary is for any reason unable to provide adequate services to the commission in such matter or question. With

city council approval, the commission may appoint such pro tem secretary without the need for approval by the city manager, according to such rules and procedures as the commission may select. The pro tem secretary may or may not be a city employee, in the discretion of the commission. During the term of service by the pro tem secretary, the secretary shall continue to serve all functions under these rules to the extent not related to the matter or question for which the pro tem secretary was appointed.

#### **RULE 4 DEFINITIONS**

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

- 4.1 ACTUAL SERVICE — Time in which a given employee has been engaged under civil service appointment in the performance of the duties of a position or positions, including absences with pay.
- 4.2 ALLOCATION — The locating or placing in the classified service of a position in the class appropriate to it on the basis of duties and responsibilities and required qualifications of such position.
- 4.3 APPLICANT — A person who has filed an application to take a civil service examination. Where appropriate, the term includes an eligible. Applicants include entry-level applicants, where previous law enforcement experience is not required, and lateral applicants, where a specified level of training or experience is required. (See rule 9.)
- 4.4 APPOINTMENT
  - 4.4.1 APPOINTMENT — REGULAR — The appointment of an eligible.
  - 4.4.2 APPOINTMENT — PROVISIONAL — A limited appointment authorized by the commission (according to such standards and qualifications as the commission may elect, from time to time) which permits the chief of police to appoint a certified or noncertified person to a classified position which is not vacant, but is currently unfilled due to an authorized leave of absence.
  - 4.4.3 APPOINTMENT — TEMPORARY — A limited appointment authorized by the commission (according to such standards and qualifications as the commission may elect, from time to time) which permits the chief of police to make an appointment other than from an eligible register for the purpose of performing work belonging in the classified service. A reduction of a regular employee is not a temporary appointment. Temporary appointments include emergency appointments, and appointment of:
    - 4.4.3.1 A noncertified person to a classified position which is vacant, for which there is no current eligible register, or for which one or more eligibles are in process of being examined, interviewed, qualified or selected, or
    - 4.4.3.2 A certified or noncertified person to a classified position which is not vacant, when it is determined by the commission that the city is temporarily in need of additional personnel due to the fact that the incumbent of such position is engaged in the police academy or any other training or qualification process..
- 4.5 ASSIGNMENT — Placement in a position within the employee's class which carries additional salary and additional limited responsibilities.
- 4.6 BUSINESS DAYS — Calendar days, exclusive of Saturdays, Sundays and legal holidays.

- 4.7 CERTIFICATION — A list of names from an eligible register transmitted by the commission to the chief of police from which the chief of police may fill a vacancy.
- 4.8 CERTIFY — Verification to the chief of police that a list of names of applicants for employment has been selected from the list of persons tested and found eligible for employment.
- 4.9 CHIEF OF POLICE — That person serving as chief of police for the city's police department, or such other person(s) as the city may lawfully designate to perform the functions of the chief of police.
- 4.10 CITY — The City of Bainbridge Island.
- 4.11 CLASS — A position or group of positions designated by the commission as having similarity in duties and responsibilities, by reason of which the same examination may be used for each position in the group.
- 4.12 CLASS SERIES — Two or more classes which are similar as to line of work but which differ as to degree of responsibility and difficulty and which have been arranged in a ladder of steps in a normal line of promotion, such as Police Officer, Police Sergeant, Police Lieutenant.
- 4.13 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.
- 4.14 COMMISSION — The Civil Service Commission. “Commissioner” means any one member of said commission.
- 4.15 DEMOTION — Removal of an employee, for cause, from a higher to a lower class of employment or salary step within a class.
- 4.16 DISCHARGE — Termination, separation, dismissal, or removal from the service for cause.
- 4.17 ELIGIBLE — Refers to the status of a person qualified by reason of having passed an appropriate civil service examination and placed on the proper eligible register.
- 4.18 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.
- 4.19 EMPLOYEE — Anyone holding a position in the City Civil Service System.
- 4.19.1 EMPLOYEE — REGULAR — Any employee who has been appointed from a certification and who has satisfactorily served the full probationary period.
- 4.19.2 EMPLOYEE — TEMPORARY — Any employee appointed to fill an emergency, temporary or short-term need, or to fill a position for which no register is available.
- 4.19.3 EMPLOYEE — EXEMPT — Any employee in a position of employment which is not subject to Civil Service rules and regulations, and in which one serves at the discretion of the chief of police.
- 4.19.4 EMPLOYEE — PROBATIONARY — A person appointed from a certification who has not yet completed the specified trial period of employment.
- 4.19.5 EMPLOYEE — PROVISIONAL — Any employee appointed provisionally to a position.
- 4.20 EXAMINATION — The process of testing, evaluating or investigating the fitness and qualifications of applicants.

- 4.20.1 EXAMINATION — EXTERNAL — An examination open to any member of the public meeting the requirements as stated in the examination announcement. This may include an examination open only to lateral applicants.
- 4.20.2 EXAMINATION — INTERNAL — An examination limited to current employees meeting the requirements stated in the examination announcement.
- 4.21 FINAL EXAMINATION SCORE — Total of earned exam score plus additional veteran's preference points for which an applicant is eligible.
- 4.22 LATERAL APPLICANT — An applicant for an eligible list for which there is a specified level of training or experience required. (See Section 9.1)
- 4.23 LAYOFF — The interruption of service and pay of any regular or temporary employee because of economy, lack of funds, lack of work, or because the position has been abolished. The term shall also apply to the separation of temporary employees who have completed the stipulated period of employment.
- 4.24 MEDICAL — Means psychological as well as physical.
- 4.25 OFFICIAL NEWSPAPER — The newspaper designated as official by the City, or as otherwise designated by the commission.
- 4.26 POSITION — Any office or employment in the service of the City which one person is required to perform as full or part-time employment, and which is included in the City's budget.
- 4.27 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 certified and appointed.
- 4.28 PROBATIONER — An employee who has probationary status.
- 4.29 PROMOTION — The appointment of an employee to a higher class or to a position of higher skill or responsibility level.
- 4.30 REGULAR POSITION — A position that is neither specified as seasonal employment, nor limited for a period of less than the budget year; also any such position established during a given budget year, unless the chief of police certifies to the commission that such position will not be continued in the succeeding year's budget.
- 4.31 REGULAR STANDING — The civil service status of a regular employee. (See Section 4.18.)
- 4.32 REINSTATEMENT — Reappointment of a regular employee to a position in a class in which the employee was a regular employee.
- 4.33 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.
- 4.34 RESIGNATION — A written request by an employee for separation from a class or from the city's service
- 4.35 RETIREMENT — The separation from employment for service or disability pursuant to applicable retirement laws.
- 4.36 SECRETARY — Secretary-chief examiner as defined in rule 3.

- 4.37 SENIORITY — The length of the employee’s continuous service with the City, including any probationary period.
- 4.38 SEPARATION — Leaving a position. Includes resignation, release, discharge, and layoff.
- 4.39 SUBSCRIPTION TESTING SERVICE — A person or organization (approved by the commission) offering a service that tests and maintains lists of applicants who have successfully completed its testing process in accordance with all applicable laws.
- 4.40 SUSPENSION — Temporary removal of an employee from employment with or without pay, for cause, or pending determination of charges against the employee which could result in demotion or discharge.
- 4.41 TEMPORARY — Employment on a basis other than permanent, probationary or recurrent as designated in the annual budget.

**RULE 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 shall become effective immediately upon their adoption by the commission, unless some later date is specified therein.
- 5.3 EFFECT OF RULES — The terms and conditions of civil service employment are governed by these rules, by applicable statute, and by ordinance. No employee shall have a property interest in or as a result of these rules. These rules, and rules the commission may enact, regulate the mode and appointment of tenure in the civil service, and employees are subject to these rules and amendments thereto.
- 5.4 INTERPRETATION OF RULES — In the event of any ambiguity, these rules shall be interpreted to advance transparency and fairness, as determined by the commission by majority.

**RULE 6                      CLASSIFICATION**

- 6.1 CLASSIFICATION PLAN — A class specification shall be prepared and maintained for each class in the civil service system. Such specifications shall describe the class generally, distinguish it from other classes, give examples of typical duties of the class, and contain, when applicable, a statement of those qualifications for applicants for positions in the class not otherwise provided in these rules. The following positions are unclassified in accordance with RCW 41.12.050: Chief of Police, Commander, Public Safety Administrative Coordinator.
- 6.2 CLASSIFICATION STUDIES — The commission will make, or cause to be made, position classification studies of individual positions or groups of positions whenever the duties of existing positions have undergone significant changes, whenever new positions are to be established by the city, upon request of the chief of police or an affected employee if title classification of such position has not been reviewed within the preceding twelve months, or whenever the commission otherwise deems it necessary.
- 6.3 CLASSIFICATION OF POSITIONS



- 7.2 APPLICATIONS FOR PROMOTIONAL EXAMINATIONS
- 7.2.1 An application shall be accepted from any regularly appointed employee in the classes from which promotion is allowed who, in addition to meeting the requirements of rule 7.1, has the requisite length of employment designated in the examination announcement.
- 7.2.2 When designated in the examination announcement, the secretary may permit regular employees and probationers to file for and take a promotional examination for delayed eligibility if on the last day for accepting applications, they meet lower specified minimum service requirements in the classes from which promotion is allowed.
- 7.3 SPECIAL REQUIREMENTS — The commission, at the request of the chief of police, may prescribe such limits and such other specific requirements, physical or otherwise, as required by the work to be performed.
- 7.4 CONDITIONAL ADMISSION — If there is reasonable doubt as to whether the applicant meets the minimum requirements, the secretary may order that the applicant be admitted to the examination on the condition that the particular requirements are met to the satisfaction of the secretary (with commission approval) before the applicant is enrolled on an eligible register.
- 7.5 REJECTION OF APPLICANT OR ELIGIBLE — The commission may direct the secretary to reject an applicant for examination, withhold from a register or from certification the name of an eligible, or remove from a register the name of an eligible, if it is determined (at any time) by the commission that the applicant or eligible:
- 7.5.1 Does not meet the requirements set forth in these rules or in the examination announcement;
- 7.5.2 Is physically or mentally unfit to perform the duties of the position sought, as demonstrated by credible evidence gather by or provided to the commission; ;
- 7.5.3 Fails to appear for, interviews, polygraph testing, fingerprinting or other investigations as required;
- 7.5.4 Has assisted in preparing the examination for which application is sought or has in any other manner secured confidential information concerning such examination which might give an unfair advantage over other applicants in the examination, or has otherwise intentionally violated the rules or requirements of the examination process;
- 7.5.5 After notification, did not promptly appear at the time and place designated for the examination; and
- 7.5.6 For other material reasons, as determined by commission (from time to time).
- 7.6 DEBARMENT FROM EMPLOYMENT
- 7.6.1 No one who has been dismissed from the service for cause involving moral turpitude shall be allowed to again enter the service, and anyone dismissed for other good cause shall be allowed to again enter the service only by express consent of the commission;
- 7.6.2 Any applicant for appointment, promotion, reemployment, increase of salary, or other personal advantage, who shall directly or indirectly pay or promise to pay any money or other valuable thing to anyone whatever for or on account of such

actual or prospective advantage, shall be ineligible for any further employment in the civil service.

- 7.7 NOTICE OF NONACCEPTANCE — Anyone against whom action is taken under Rule 7.5 above shall be notified within a reasonable period of time by the secretary or chief of police of the reasons therefore by either oral notice at the time of filing the application and/or written notice to the applicant or eligible.
- 7.8 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.
- 7.9 AMENDMENT OF APPLICATION — The secretary may permit any applicant, before or after acceptance of the application form, to amend the application or to file an amended application.
- 7.10 APPLICATIONS NOT RETURNED — All applications, when completed and filed, become the property of the commission and thereafter may not be returned to the applicant.
- 7.11 APPLICATION FEE — A fee for application may be charged as published in the examination announcement.

## **RULE 8 EXAMINATIONS**

- 8.1 ORDERING EXAMINATIONS — The commission will order an internal or external examination whenever it is deemed to be in the best interest of the city. The secretary shall cause examinations to be administered as provided by these rules; provided the commission (in its discretion) may delegate all or any aspect of the examination process to a Subscription Testing Service.
- 8.2 EXAMINATION ANNOUNCEMENT — The secretary shall cause all examination announcements to be published on the city's website at least ten (10) days preceding such examination. Such announcements shall also be published in the official newspaper or other publications which the secretary may direct. Notwithstanding the foregoing, the provisions of this Rule 8.2 shall not apply with respect to any examination that has been delegated to Subscription Testing Service.
- 8.3 AMENDMENTS TO ANNOUNCEMENTS — The secretary may cause any published announcement to be amended with appropriate public notice.
- 8.4 CONTINUOUS EXAMINATIONS — Whenever it determines that it serves a useful purpose, the commission may order a program of continuous examinations under which examinations are periodically administered and the resulting names of qualified eligibles are added to a consolidated eligible register according to their final grades.
  - 8.4.1 To expedite certification and to maintain security of examination material, no keyed copy of the written test will be provided at any time. The eligible register may be promulgated immediately after the results are obtained.
  - 8.4.2 Except as above provided, the rules applicable to other examinations shall apply to continuous examinations.
- 8.5 CHARACTER OF EXAMINATIONS — All examinations shall be competitive, impartial, and practical in their character. They shall be designed to qualify and rank applicants in terms of their relative fitness to perform the duties of the class for which the examination was ordered. An examination shall be deemed to be competitive when applicants are

- tested as to their relative qualifications and abilities, or when a single applicant is scored against a fixed standard.
- 8.6 CONTENT OF EXAMINATIONS — Examinations may include written tests, personal qualifications, physical or performance tests, or evaluations of training and experience, interviews, any other suitable evaluation of fitness, or any combination of such tests as selected by the commission. Such tests may evaluate education, experience, aptitude, knowledge, skill, physical condition, personal characteristics, and other qualifications to determine the relative fitness of the applicants.
- 8.7 PARTS AND WEIGHTS — Each examination shall contain one or more parts to which percentage weights shall be assigned, which weights shall total 100%. Unless the commission decides otherwise, the weights for the oral and written exam shall be 60% and 40% respectively. Each part shall be graded independently. This earned grade shall be multiplied by the percentage weight assigned to such part, and the sum of the resulting products shall be called the examination grade.
- 8.8 PASSING GRADES
- 8.8.1 In its discretion, the commission may establish a minimum passing grade for examinations, exclusive of veterans' credit, if any. In order to conserve financial resources, the commission may also establish a numerical cut off for applicants based on written test scores, thereby limiting the number of applicants forwarded for physical agility or other testing process.
- 8.8.2 With the approval of the commission, the secretary may set a minimum score to be required in any part of any examination and any applicant who fails to attain such minimum score shall be considered as having failed in the entire examination and shall not be entitled to take the balance of the examination or, when all parts of the examination have been applied, any applicant who fails to obtain such minimum score on any part shall be considered as having failed in the entire examination and any remaining parts of the examination need not be scored. Unless the commission decides otherwise, the passing score shall be 70%.
- 8.8.3 When a minimum score is required for an examination or any part thereof, it shall be stated in the examination announcement and announced at the time of the examination.
- 8.9 PROMOTIONAL EXAMINATIONS — Vacancies in the higher positions of a class shall be filled by promotion, whenever practicable in the judgment of the commission.
- 8.10 VETERANS' CREDIT — Veterans who have passed an examination shall be entitled to credit pursuant to RCW 41.04.
- 8.11 KEYED COPY INSPECTION AND EXAMINATION PROTEST
- 8.11.1 Any protest against the scope, content, or practicality of any part of an examination shall be filed in writing with the secretary within three (3) business days immediately following the administration of such part or within the time limit specified on the examination instruction sheet.
- 8.11.2 When a keyed copy is provided, protests against the proposed keyed answers must be filed in writing within three (3) working days or the time limitation specified on the examination instruction sheet. Challenge will be made after

inspection of the tests in accordance with and as limited by the terms of any agreement covering the use of a standardized test.

- 8.11.3 When a qualifying grade is required on any part of an examination, those who fail to receive the qualifying grade shall be notified, and any protest or appeal must be filed with the secretary (or with the Subscription Testing Service, as the case may be) in writing within ten (10) business days after the notices of results have been mailed.
- 8.11.4 Any protest against scoring or any allegation of clerical error in the final results of an examination must be filed in writing within ten (10) business days after the notices of results have been mailed.
- 8.11.5 All protests filed in accordance with this rule shall be considered, and any proper corrections made. If authorized corrections are applicable to other examinees, the corrections shall be made on all examination papers affected.
- 8.12 CORRECTION OF CLERICAL ERRORS — Any clerical error may be corrected by the secretary upon discovery at any time during the life of the eligible register, but no such correction shall affect an appointment made from a certification made prior to the correction. All such errors shall be reported in writing to the commission.
- 8.13 EFFECTIVE DATE OF EXAMINATION RESULTS — Results of an examination shall become effective on the date notice thereof is posted.
- 8.14 REEXAMINATION
  - 8.14.1 No one shall reapply for the same class within one (1) year of the effective date of the original application for the class unless authorized by the commission upon determination that it would be in the best interest of the city.
  - 8.14.2 If an eligible takes a succeeding examination for the same class, the result of such examination shall not nullify any remaining eligibility already established. Eligibility attained by the second examination shall be entered on the register, and the eligibility that will provide the greatest advantage to the eligible shall be used.
- 8.15 EXAMINATION PAPERS — Examination papers of each eligible shall be kept on file in the office of the commission (or in the office of the Subscription Testing Service as applicable) until the expiration of eligibility, following the Local Government Common Records Retention Schedule.
- 8.16 ADDITIONAL EXAMINATION — Eligibles partially qualified pursuant to these rules shall be subject to medical, physical, and/or psychological examination and to such other examinations as authorized and approved by the commission. Such other examinations include, but are not limited to, background examination and polygraph; provided, however, that under RCW 49.44.120, polygraph examination shall be allowed only for applicants from outside the department and persons returning service after a break of more than twenty-four consecutive months in service as a fully commissioned law enforcement officer. Reports of such examination shall be filed with the commission in the event the findings of the examination recommend that the eligible be rejected. The commission shall consider such recommendation, may require further examination, and may order the eligible's name dropped from the eligible register.

## **RULE 9 REGISTER AND ELIGIBILITY**

- 9.1 ESTABLISHMENT OF ELIGIBLE REGISTERS — After each examination, an eligible register for the class shall be prepared on which the names of successful applicants shall be ranked as follows:
- 9.1.1 For any specific class, the commission may establish separate registers for entry-level applicants and lateral applicants. Unless the commission decides otherwise, a lateral applicant for police officer must have completed a recognized police academy comparable to that administered by the Washington State’s Criminal Justice Training Commission (“CJTC”), have a minimum of 1 year active police experience, and have been employed by a law enforcement agency within the 24 months prior to examination.
  - 9.1.2 Relative rank on an eligible register shall be determined by the examination ratings or grades, plus any applicable veterans’ credit.
  - 9.1.3 In determining the relative rank of the successful applicants on an eligible register, the secretary shall round the examination rating or grade, inclusive of any veterans’ preference, to the nearest whole number. Scores with a decimal component below 0.50 shall be rounded down to the nearest whole number and those with a decimal component of 0.50 and higher shall be rounded up to the nearest whole number. Scores below the established passing grade shall not be rounded up to reach a passing grade. Eligibles with final equal examination ratings or grades shall be accorded the same standing on the register (in accordance Rule 10.3.1.3 below).
  - 9.1.4 If an applicant is permitted to file for and take an examination for delayed eligibility, and if such applicant is successful in the examination, eligibility shall be held in abeyance until the applicant meets the requirements for eligibility, which must be reported in writing. If otherwise eligible, the applicant’s name shall be placed on the register in accordance with the final examination grade. Any such eligibility shall expire with that of other eligibles from the same examination.
  - 9.1.5 Duration of Eligible Registers – An applicant’s name on an eligible register shall be maintained for one year from the date that the commission approves placement of the applicant’s name on the eligible register. Before the end of the one-year period on the eligibility register, the commission may extend the period of eligibility for up to one additional year for all applicants from that specific testing period, who are available for employment.
- 9.2 RETURN TO ELIGIBLE REGISTER AFTER RESIGNATION OR RETIREMENT
- 9.2.1 A former employee who resigned or retired may request return of his name to the proper open graded eligible register for the class. Such request must be made within one year from the date of resignation or retirement; provided, the commission may extend the above time limitation for not to exceed an additional four years upon satisfactory showing that such extension would be in the best interest of the city.
  - 9.2.2 Any request for return to register following resignation or retirement must be supported by written recommendation of the chief of police.
  - 9.2.3 A former employee whose eligibility is reinstated under this rule shall be certified according to these rules.

- 9.3 APPOINTMENT WITHOUT EXAMINATION — Except pursuant to reinstatement rights provided in these rules, 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 chief of police, 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 the chief of police, the commission may approve the certification of anyone on such a reinstatement register as eligible for appointment on an open competitive basis.
- 9.5 REFUSAL TO ACCEPT REINSTATEMENT — Refusal to accept permanent work from a reinstatement register shall terminate all rights granted under this rule.
- 9.6 REMOVAL FROM ELIGIBILITY LIST — On the request of the Appointing Authority, after a threshold, an individual may be disbarred from employment and removed from the eligibility list after ten (10) days written notice from the Secretary/Chief Examiner, sent by certified or registered mail, when the Secretary/Chief Examiner determines:
  - 9.6.1 The applicant cannot be located by postal authorities at the address provided in the application; or
  - 9.6.2 Fails to respond in the manner requested by a notice of the Commission; or
  - 9.6.3 Requests to be removed from the eligibility list; or
  - 9.6.4 Declines an appointment to the classified service; or
  - 9.6.5 Is determined by the Secretary/Chief Examiner, for good cause shown the request of the appointing authority to be disbarred from employment due to the existence of an automatic or potential disqualifier previously approved by the Commission or for other good cause shown by the Appointing Authority. Removal from the list is subject to appeal pursuant to the provisions of Rule 3.4.2.

**RULE 10 CERTIFICATION AND APPOINTMENT**

- 10.1 GENERAL PROVISIONS — Vacancies in the classified civil service shall be filled by reinstatement, promotional appointment, assignment, original appointment, transfer, reduction, or demotion. In the absence of an appropriate register, or at such other times as the commission deems it to be necessary to meet the needs of the city, the commission may authorize a temporary or provisional appointment according to such standards and requirements as the commission may elect.
  - 10.1.1 CERTIFICATION — All applicants certified as a qualified applicant by the Subscription Testing Service shall be reviewed and approved by the commission prior to the referral to the chief of police. Following qualification of applicants pursuant to the procedure set forth in the contract with the Subscription Testing Service, applicants may be certified as eligible for appointment to the chief of police.
  - 10.1.2 ADDITIONAL TESTING — Applicants qualified pursuant to a subscription testing service may be subject to additional testing at the discretion of the Commission. Additional testing will be specified by the Commission at the initiation of any

eligibility process. The appointing authority and Chief of Police are encouraged to conduct a background investigation, polygraph test, psychological and medical testing, physical agility testing, and an oral interview as part of the Chief's selection process.

10.2 REQUEST FOR CERTIFICATION — Whenever the chief of police wishes to fill a vacancy, a request for certification shall be submitted to the commission. The request shall show the number of positions or vacancies to be filled, the class title, tenure of work to be performed, cause of the vacancy, or if a new position, authority for the appointment and any other details for full description of the position to be filled.

### 10.3 CERTIFICATION

#### 10.3.1 Filling vacancies

10.3.1.1 When a vacancy is to be filled, the commission shall certify to the chief of police the names of the three available eligibles who stand highest on the appropriate register (except as otherwise provided in this Rule 10).

10.3.1.2 Nothing in these rules shall be interpreted to prohibit the commission from certifying an eligible register containing fewer than three available eligibles where an insufficient number of applicants apply, fail to meet the minimum criteria established or pass the required examination(s). In such case, the commission may (in its discretion) certify the names of the available eligibles who stand highest on the appropriate register. The chief of police may then either appoint from the list or elect to fill the vacancy by temporary appointment (in accordance with these Rules) until the eligible register contains the names of at least three available eligibles.

10.3.1.3 Eligibles with equal final examination ratings or grades shall be accorded the same standing on the register. In the event tie scores result in more than three eligible applicants standing highest on the register, the commission shall certify to the chief of police, the names of the applicants with the three highest scores, including any applicant whose score ties the lowest score. For example, if two eligibles are tied with a score of 90, two eligibles are tied with a score of 88, and two eligibles are tied with a score of 80, the commission shall certify to the chief of police the names of the four eligibles with the scores of 90 and 88.

10.3.2 Multiple Vacancies — If two or more vacancies are to be filled from any single register, the name of one additional person shall be certified for each additional position.

10.3.3 Additional Names — If the chief of police makes an acceptable showing that any of the eligibles certified are not available, do not respond, or are otherwise not qualified for the vacant position, sufficient additional names shall be furnished to complete the certification.

10.3.4 Special Skills — Where a certification of eligibles with special experience, training or skills is requested in writing by the chief of police as being necessary for satisfactory performance in a particular position, and the commission determines that the reasons given fully justify the request, a certification may be made of only the highest ranking eligibles who possess the special qualifications.

- 10.3.5 Prior Service — If a temporary vacancy is to be filled from an entry or a promotional register, those eligibles with three months of service who are shown on the register as having been laid off within the last 12 months shall be placed in grade order at the head of the list of eligibles for certification according to these rules.
- 10.3.6 Application/Examination — The application and the examination papers of an eligible shall be available for inspection by the chief of police.
- 10.4 DEFERMENT OF CERTIFICATION — The commission may grant deferment of certification of an eligible upon receipt from the eligible of a written request with satisfactory reason therefore. Such deferment will thereafter prevent certification of such eligible until the next vacancy occurring after the eligible has given written notice of his or her desire to be returned to the register, and such return has been approved by the commission.
- 10.5 DURATION OF CERTIFICATION — Certification shall be in effect for three (3) months from its date of issuance. The chief of police must file a report of any appointment from such certification with the secretary. Upon request, the commission may extend such certification for additional 30-day periods. Expiration of eligibility shall not cancel the validity of a certification.
- 10.6 REGULAR APPOINTMENT — A regular appointment to fill a vacancy must be made from the names contained on the certification. The appointment report shall be prepared by the chief of police and shall show the name of the person appointed, the effective date, the salary, the nature or duration of the appointment, and any other information required.
- 10.6.1 TEMPORARY OR PROVISIONAL APPOINTMENT — Where there is no suitable eligible register from which certification can be made, or when the commission determines it to otherwise be in the best interest of the city and the classified service, the commission may allow the chief of police to make a temporary or provisional appointment, subject to budgetary authority. The secretary shall advise the commission of all requests for such appointments. Such permission to make temporary or provisional appointments shall be subject to such standards and qualifications as the commission may elect, from time to time, to impose.
- Minimum Qualifications for Temporary or Provisional Appointment — All individuals appointed either temporarily or provisionally to positions shall be subject to Washington state law, and in the case of law enforcement officers, all employment and certification requirements of the Criminal Justice Training Commission.
- 10.6.1.1 A temporary or provisional peace officer candidate shall have at least twelve (12) months experience as a certified peace officer with no more than a twenty-four (24) consecutive month break in service as a full-time law enforcement officer.
- 10.6.2 TERM OF TEMPORARY OR PROVISIONAL APPOINTMENT — A temporary or provisional appointment may be made for a period of up to four months and may be extended for a longer period of time upon a showing of cause by the chief of police, and if, in the opinion of the commission, the best interests of the classified service and the city would be served thereby.
- 10.6.2.1 All temporary or provisional employment in a class shall cease at the earliest possible date and shall not exceed forty-five (45) days from date of

notice that a proper eligible register for such class is available; provided, that an extension may be granted by the commission upon satisfactory written showing by the chief of police, if such extension is in the best interests of the classified service and the city.

10.6.2.2 The commission may revoke a prior temporary or provisional appointment, at any time, if, in the opinion of the commission, the best interests of the classified service and the city would be served thereby.

## **RULE 11                    PROBATION**

### **11.1    PROBATIONARY PERIOD**

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

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

11.2 **LENGTH OF PROBATIONARY PERIOD** — The period of probation shall vary depending on classification. For lateral police officers, the period of probation shall be equivalent to twelve months of full-time service following regular appointment from an eligible register. For entry level police officers, the period of probation shall be equivalent to twelve months of full-time service following completion of the basic law enforcement academy. For all other classifications, the period of probation shall be equivalent to six months of full-time service following regular appointment from an eligible register. Minor absences due to vacations, annual military leave, illnesses, etc., shall not be construed as interrupting the probationary period unless the period(s) is determined by the commission to be excessive or otherwise prevent the chief of police from having a reasonable opportunity to evaluate the performance of the employee. For cause shown, the commission may approve 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 shall be considered as having an interrupted probationary period. Such employee may continue the probationary period following return from military leave.

11.4 **SERVICE IN ANOTHER CLASS** — Service in a class or office other than the one to which an eligible is regularly appointed may be credited toward completion of a probationary period if the secretary has approved the written statement of the chief of police to the effect that the probationary period may be properly judged on the basis of service in the other class or office.

### **11.5    PROBATIONARY DISCHARGE OR DEMOTION**

11.5.1 **Grounds** — The chief of police, by assigning in writing to the commission the reasons therefore, may discharge any probationer. Such reasons need not

constitute just cause and shall not otherwise be reviewed by the commission except as provided elsewhere in these rules.

- 11.5.2 Procedure — The chief of police must file a prescribed form stating the reasons for the removal prior to the end of the probationary period. Notice must be mailed to or personally served on the employee and proof of notice filed.
  - 11.5.3 Retained — A promotional probationer, except one dismissed not for cause, retains all civil service rights to the position from which appointed. Such rights shall be retained whether promotion is to an entry-level or promotional position.
  - 11.5.4 Demotion — A probationer may be demoted for inability to perform satisfactorily the duties of the position to which appointed, in accordance with the rules on demotion, or may be allowed eligibility for another position in the same class, for which he is deemed qualified by the chief of police, subject to approval by the commission. A probationer demoted to a class in which he or she has not held regular standing shall start a new period of probation.
- 11.6 PROTESTS — Any probationer may file a written protest with the commission, via notice to secretary, protesting a termination of probationary status or demotion. All protests must be filed within ten (10) days of notice of the action taken. The commission will give due consideration to and take appropriate action on all timely-filed protests.

## **RULE 12                      TRANSFER AND REDUCTION**

- 12.1 TRANSFER — The transfer of an employee shall not constitute a promotion in the service, except as provided in rule 12.3. 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 INTRA-DEPARTMENTAL TRANSFERS — The chief of police may transfer an employee from one position to another position in the same class without prior approval of the secretary but must report any such transfer to the secretary within five (5) days of its effective date. The transfer of an employee shall not constitute a promotion in the service, except as provided in rule 12.3.
- 12.3 PROCEDURE — Transfers may be made upon consent of the chief of police and with the commission's approval as follows:
- 12.3.1 Transfer to another class in case of injury in line of duty with either the civil service or with the armed forces in time of war, resulting in permanent partial disability, where showing is made, in accordance with state or federal law, that the transferee is capable of satisfactorily performing the duties of the new position;
  - 12.3.2 Transfer, in lieu of layoff, may be made with limited standing to a single position in another class, upon showing that the transferee is capable of satisfactorily performing the duties of the position and that a regular employee or probationer is not displaced. Regular standing in the new class may be attained by the employee only through examination and permanent regular appointment.
  - 12.3.3 Transfer, in lieu of layoff, may be made with limited standing to a single position in another class when such transfer would constitute a promotion or advancement in the service, provided a showing is made, that the transferee is capable of

satisfactorily performing the duties of the position and that a regular employee or probationer is not displaced and when transfer in lieu of layoff under rule 13 is not practicable. Regular standing in the new class may be attained by the employee only through examination and permanent regular appointment.

#### 12.4 VOLUNTARY REDUCTION

12.4.1 A voluntary reduction of an employee from a higher class to a lower class may be made only upon an employee's written request, and consistent with these rules.

12.4.2 Applicable Classes — A voluntary reduction may be approved for:

12.4.2.1 The next lower or any lower class in the class series containing the class from which reduced;

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

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

12.4.2.4 For employees seeking return to employment or reemployment from a disability, to a vacant position in another permissible class for which the employee qualifies.

12.4.3 Procedure

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

12.4.3.2 The reduction must be approved by the chief of police, and reported to the commission.

12.4.3.3 The reduction shall take effect on the date ordered by the commission.

12.4.4 Effect of Reduction

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

12.4.4.2 An employee reduced shall be able to return to the former position only by examination and regular appointment or in the event of a recovery from disability, appointment from a reinstatement register.

12.4.5 Reduction Available

12.4.5.1 By Employee — A voluntary reduction may be sought by an employee for any vacant position in a class.

12.4.5.2 Employees Without Standing — When an employee is reduced from an exempt position, the employee may petition in writing to the commission within 10 days of the end of employment in the exempt position for placement on a reinstatement register for a class for which the employee is deemed eligible. In considering the placement of the employee, the commission may consider the employee's experience, the record of city employment, or such other factors as deemed in the best interest of the city. The commission's decision shall be deemed permissive and discretionary, and an employee shall have no claim or cause for denial of placement on a reinstatement register.

12.4.6 The commission may, in its judgment and discretion, provide in the order granting or approving any reduction that the employee shall serve a designated trial period, not to exceed one month's service from the effective date of the reduction, in the position to which reduced for the sole purpose of satisfying the commission that employee is capable of satisfactorily performing the functions and duties of such position or class, provided, however, that 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.

### **RULE 13 LAYOFF AND REINSTATEMENT**

- 13.1 ORDER OF LAYOFF— In a class, the following shall be the order of layoff:
- 13.1.1 Temporary or intermittent employees;
  - 13.1.2 Regular employees, by the order of seniority with the employee with the least seniority affected first.
- 13.2 REDUCTION IN LIEU OF LAYOFF — An employee who has previously held other classifications shall have the right to return to such classifications if the employee's seniority is greater than the other employees in such classification.
- 13.3 REINSTATEMENT — An employee who has been laid off shall be reinstated on the basis of seniority to any previously held other classification if a vacancy occurs.

### **RULE 14 LEAVES OF ABSENCE**

- 14.1 DURATION OF LEAVES
- 14.1.1 A leave of absence without pay for a period not exceeding sixty (60) consecutive days may be granted by the chief of police, who shall give notice of such leave to the commission.
  - 14.1.2 A request for a leave of absence longer than sixty (60) days bearing the favorable recommendation of the chief of police may be granted by the commission.
  - 14.1.3 No employee shall be given leave to take a position outside the city service for more than sixty (60) days in any calendar year, except where it appears in the best interest of the city.
- 14.2 CANCELLATION/REVOCATION — Any or all leaves of absence without pay within a department may be canceled whenever any necessity arises in the good-faith judgment of the chief of police. The chief of police may revoke an individual employee's leave without pay if it is found that the employee is using the leave for purposes other than that for which it was granted. Employees may be ordered to return to work immediately or as soon as practicable on written notice from the chief of police of the cancellation or revocation of their leave. A copy of such notice shall be filed with the secretary immediately.
- 14.3 OTHER OFFICES
- 14.3.1 Leave to Take City Offices — Whenever a regular employee is appointed or elected to any city office which is exempt from the civil service system, the commission shall grant, and such employee must take, a leave of absence from

the civil service position, without pay thereof, for the entire length of time that the office is held. Original probationers so appointed may be granted such leaves, depending upon the circumstances of each particular case, or they may be dropped from the service upon assumption of office.

14.3.2 Leave to Take Other Public Office — Whenever a regular employee is elected or appointed to a salaried elective office, or is appointed to a salaried appointive office of State of Washington or of any of its political or municipal subdivisions or corporation other than the City of Bainbridge Island, or of the United States or any of its agencies, commissions, board or departments, the commission may grant such employee, upon written request a leave of absence without pay for the entire length of time that such office is held, or for such shorter, designated time, and upon such terms and conditions as the commission may deem proper in the particular case, consistent with the best interests of the city and the Civil Service System. Original probationers so elected or appointed shall not be granted such leaves, but shall be dropped from the service upon assumption of the office.

14.3.2.1 If a regular employee so elected or appointed fails to file a request for a leave of absence, or if such request is denied, the employee may be separated from the service upon assumption of the elective or appointive office.

- 14.4 RETURN FROM LEAVE — At the expiration of the authorized leave of absence, a probationer or regular employee shall resume the same class of work with standing and seniority as determined by these Rules.
- 14.5 MILITARY LEAVE — See City of Bainbridge Island and Washington law relating thereto.
- 14.6 FILLING VACANCY — All temporary employment caused by leave of absence shall be made pursuant to rule 10.
- 14.7 PROTESTS — All protests to any action pertaining to leaves of absence shall be filed with the commission, via notice to the secretary, within ten (10) days of notice of such action. The commission shall give due consideration to and take appropriate action on all timely-filed protests.

## **RULE 15                      RESIGNATION**

- 15.1 HOW SUBMITTED — Resignation of any employee from the service shall be made in writing and filed with the secretary after approval by the chief of police.
- 15.2 WITHDRAWAL OF RESIGNATION — The commission may (in its sole discretion) permit the withdrawal of a resignation only upon a written request filed within one hundred and eighty (180) days from the effective date of the resignation and if such request for withdrawal bears the favorable recommendation of the chief of police.
- 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, after giving the chief of police reasonable notice and an opportunity to be heard on the matter. Such action by the commission may only be taken upon the written petition of the resigned employee filed with the secretary within ten (10) days from the effective date of the resignation. If no such petition is filed within the ten (10) day limit, a

resignation shall be conclusively presumed to have been made voluntarily and without duress or coercion.

- 15.4 **IMPLIED RESIGNATION** — The chief of police may presumptively consider any employee to have implied resignation upon finding that such employee has been absent from duty without leave or authorization or has failed to report for duty following the expiration or termination of any suspension for five (5) or more consecutive working days or has quit or “orally resigned” and has been absent from duty for three (3) or more consecutive working days without leave or authorization. An employee will not be determined to have resigned under this rule until five (5) days after proof of service of a written notice by registered or certified mail to the employee’s last known address as filed with the secretary. No resignation order shall take effect if, prior thereto, the employee reports for active duty, applies for restoration or reinstatement, or otherwise gives notice to the chief of police or the secretary which, in the judgment of the commission, rebuts the presumption of resignation.
- 15.5 **RETURN TO ELIGIBLE REGISTER FOLLOWING RESIGNATION** — See rule 9.

## **RULE 16 DISCIPLINE AND DISCHARGE**

### **16.1 SUSPENSION**

- 16.1.1 A chief of police may suspend an employee, with or without pay, for a period not to exceed thirty (30) days for good cause.
- 16.1.2 Any deprivation by the chief of police of any vacation or other paid leave, compensatory time-off or other privilege involving pay or compensation either directly or indirectly, to which an employee is otherwise entitled under law and these rules, shall be deemed to be a suspension without pay and shall be subject to the above provisions.
- 16.1.3 Where the charge upon which a suspension is the subject of criminal complaint or indictment filed against such employee, the period of suspension may exceed 30 calendar days and continue until, but not after, the expiration of 30 calendar days after the judgment of conviction or the acquittal of the offense charged in the complaint or indictment has become final.

### **16.2 DEMOTION — DISCHARGE**

- 16.2.1 The chief of police may discharge an employee or demote an employee to a lower class for cause, provided the police chief demonstrates to the commission such demoted employee’s ability to perform the duties required of an employee in the lower class. An employee so demoted shall lose all rights to the higher class. If the employee has not had previous standing in the lower class, such demotion shall not displace any other regular employee or any probationer.
- 16.2.2 The demoted employee shall be required to serve actively during a trial period in the lower class to which demoted, and adequate performance during the trial period shall be a condition to continued employment in such lower class.

### **16.3 DISCIPLINE — GOOD CAUSE — ILLUSTRATED** — The following are declared to illustrate adequate causes for discipline; discipline may be made for any other good cause:

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



## **RULE 18 HEARINGS**

- 18.1 HEARINGS — DISCIPLINARY APPEALS — Subject to Section 18.18 below, the following Rule 18 shall be applicable to all employees subject to the civil service system who allege that he or she has been injured by violation of the rules or laws applicable to the civil service system of Bainbridge Island as follows:
- 18.1.1 Any employee who is demoted, suspended, or terminated may appeal such action to the commission.
- 18.1.2 Any employee who is alleged to be probationary may only appeal to the commission the questions of probationary status and whether the procedures for discharge of probationers, as found in these rules, were properly followed.
- 18.1.3 Any applicant or individual certified to an eligibility list who has been disbarred from employment or removed from an eligibility list on the order of the Secretary/Chief Examiner.
- 18.2 APPEALS — TIME — FORM — A notice of appeal shall be filed with the secretary within ten (10) business days of the action that is the subject of the appeal. The notice of appeal shall be in writing and shall include the mailing address and street address where service of process and other papers may be made upon the appellant. The notice of appeal shall also contain a brief description of the facts giving rise to the appeal and a concise statement of the reason for the appeal.
- 18.3 EXHAUSTION OF ADMINISTRATIVE REMEDIES
- 18.3.1 The secretary may, when not inconsistent with the terms of a collective bargaining agreement, direct the employee to exhaust available administrative procedures regarding a disciplinary matter before setting a date for hearing of the matter.
- 18.3.2 If the employee exhausts the available administrative procedures and continues to believe that good cause has not been shown, the employee may within ten (10) days after the final step of the procedure request the secretary to return the appeal to the commission for hearing.
- 18.4 AUTHORITY OF SECRETARY
- 18.4.1 At the direction of the commission, the secretary shall have the authority to make orders of preliminary matters, including motions for discovery and to compel discovery, continuance, protective orders, and other similar matters. Such orders may be appealed to the commission.
- 18.4.2 As an aid to investigations authorized by the commission, the secretary may (with approval of the commission) subpoena any documents that would be discoverable for purposes of hearing preparation and may take depositions by tape recorder of any person who may have relevant knowledge. Depositions so taken shall be kept as part of the records of the commission.
- 18.5 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 a determination 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 shall 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 by an employee, the secretary shall forward a copy of the notice to other affected parties. As soon as possible thereafter, but in any event within ten (10) business days, a hearing before the commission shall be set, with each party to be afforded not fewer than twenty (20) business days notice of such hearing. Subsequent hearings on the same appeal shall have five (5) business days notice unless waived by the parties. All parties may agree to waive the notice provisions and time limits provided by this section.
- 18.7 APPEALS — AUTHORITY OF DEPARTMENT — The exercise of jurisdiction by the commission over a matter does not preclude the party from withdrawing, modifying or otherwise compromising the matter prior to the matter going to hearing. Upon resolution of a matter prior to hearing, any party may request the dismissal of the matter. A stipulation signed by both parties should be submitted to the commission prior to such dismissal.
- 18.8 SERVICE OF PROCESS — PAPERS
- 18.8.1 The secretary 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.
- 18.8.2 All notices, documents or papers served by either the commission or a party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers shall be by personal service, by registered or certified mail, or by regular mail with written acknowledgment of such mailing attached to the papers so served. Written acknowledgment shall be by affidavit of the person who mailed the papers or by certificate of any attorney or secretary.
- 18.8.3 Service upon an attorney or a party shall be made by delivering a copy to him or her by mailing it to his or her last known address. If service is made by mail, the papers shall be deposited in the post office addressed to the person on whom they are being served, with the postage prepaid. The service shall be deemed complete upon the third day following the day upon which they are placed in the mail, unless the third day falls on a Saturday, Sunday or legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday or legal holiday, following the third day.
- 18.8.4 Papers required to be filed with the commission shall be deemed filed upon actual receipt of the papers by the secretary at the commission office. All papers except the original appeal notice shall be served with the original and five copies. Briefs and memoranda must be filed with the commission at least three (3) days prior to any hearing involving matters discussed in said brief or memoranda. Documentary evidence is not required to be filed but may be provided at the hearing.
- 18.8.5 Each party is responsible for notifying the commission in writing of any change in mailing or street address and telephone number. Failure to so notify the commission shall constitute a waiver of service and notice under these rules.
- 18.9 DISCOVERY

- 18.9.1 Parties to a proceeding are required to provide to each other reasonable access and discovery to all relevant information concerning the matter before the commission. Any questions concerning relevancy or access shall be resolved by order of the secretary, with right of appeal to the commission.
- 18.9.2 Upon the failure of any party to comply with an order of the secretary compelling discovery, the secretary shall schedule the matter before the commission for review and determination of appropriate sanctions.
- 18.10 SUBPOENAS
- 18.10.1 Every subpoena shall identify the commission and the title of the proceedings, if any, and shall command the person to whom it is directed to attend, at a specified time and place, and give testimony or produce designated books, documents, or things under that person's control.
- 18.10.2 Upon application of any party or his/her representative, the secretary (upon approval of the commission) shall issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The party requesting the subpoena is responsible for having said subpoena properly served. Such requests for subpoenas shall be submitted to the commission offices at least three (3) days prior to the hearing.
- 18.10.3 Service of subpoena shall be made by serving a copy of the subpoena on the person named therein.
- 18.10.4 The person serving the subpoena shall make proof of service by filing the subpoena at the commission office, and if such service has not been acknowledged by the witness, the person serving the subpoena shall make an affidavit of service. Failure to file proof of service does not affect the validity of service.
- 18.10.5 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:
- 18.10.5.1 Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or
- 18.10.5.2 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, suspension or termination, the disciplinary authority shall have the burden of showing (by a preponderance of the evidence) that its action was in good faith for cause. At any other hearing, the petitioner or appellant shall have the burden of proof by a preponderance of the evidence.
- 18.12 EVIDENCE
- 18.12.1 Subject to other provisions of these rules, all competent and relevant evidence shall be admissible. In passing upon the admissibility of evidence, the commission shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in the superior courts of the State of Washington.
- 18.12.2 A witness in any hearing may be examined orally, under oath or affirmation and shall be subject to cross-examination by opposing parties and the commission.

- 18.12.3 When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The commission may exclude inadmissible evidence and may order cumulative evidence discontinued in its discretion, either with or without objection. A party objecting to the introduction or exclusion of evidence shall state the grounds of such objection at the time such evidence is offered or excluded. No such objection shall be deemed waived by further participation in the hearing.
- 18.12.4 At any hearing before the commission when documentary exhibits are to be offered into evidence, copies shall be furnished to the opposing party, to each commission member and to the secretary.
- 18.12.5 Parties are encouraged to stipulate to the admissibility of documentary exhibits. To further this end, parties will make request of other parties for such stipulation no later than three (3) days in advance of the hearing, barring unusual circumstances. The party of whom the request is made shall respond no later than one (1) day prior to the hearing.
- 18.12.6 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 DELIBERATION — Deliberations by the commission shall otherwise be subject to RCW 42.30. The commission may deliberate in closed (executive) session when taking a disciplinary or other quasi-judicial case under advisement. No additional persons other than the secretary and legal counsel to the commission shall be present during deliberation. No person shall attempt to convey any information or opinion to the commission concerning any matter on appeal, other than in open hearing.
- 18.14 DECISION — In any appeal, the commission shall issue a decision, including findings of fact, conclusions of law, and an order, to each party or counsel of record for each party. A decision shall be issued within ninety (90) days after the close of the hearing of an appeal or other proceeding heard only by the commission, provided, that this time period may be extended by the commission when extraordinary circumstances require additional time to render the decision.
- 18.15 REMEDIES — The commission may issue such remedial orders as deemed appropriate.
- 18.16 RECONSIDERATION — A party may move for reconsideration by the commission only on the basis of fraud, mistake, or misconception of facts. Such motion must be filed with the commission within ten (10) days of the decision of the commission. Such motion for reconsideration shall be decided on affidavits, absent special showing that testimony is necessary.
- 18.17 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.
- 18.18 NON-DISCIPLINARY APPEALS – In the event that a non-disciplinary appeal or petition is submitted to the commission by a person adversely affected by an alleged violation of these rules, the commission may authorize the secretary to investigate the appeal or petition and report the results of such investigation to the commission in an open meeting. On the basis of such report, the commission shall either dismiss the appeal or petition if it is without basis or set the matter for full hearing in accordance with the provisions of this Rule 18.

**RULE 19 RETIREMENT AND DISABILITY**

- 19.1 RETIREMENT — Employees who are members of retirement systems as provided by law shall be retired on account of age/service or disability in accordance with the pertinent provisions of law.
- 19.2 REINSTATEMENT AFTER DISABILITY RETIREMENT
  - 19.2.1 Procedure — The commission shall review any report from a retirement system showing that a former employee who is on disability retirement has regained his health to the extent employable. Upon being satisfied that the employee is physically and mentally competent to perform the duties of the regular class, the commission shall:
    - 20.2.1.1 Order return of the employee to former employment status as if a leave of absence had been granted; or
    - 20.2.1.2 Place the name on the reinstatement register for an available class and department.
  - 19.2.2 Effect — The name of an employee who is employable but not fully recovered shall be placed on the most advantageous reinstatement register for an equivalent or lower class comprised of duties the employee is competent to perform, as determined by the commission. If such an employee’s name is placed on a reinstatement register, seniority acquired previous to retirement shall be continued. The employee shall be reinstated from such register and transferred or reduced in grade according to the rules. Eligibility rights shall not expire as prescribed in case of layoff. Any reinstatement in a class other than that in which last employed shall not result in a promotion.
  - 19.2.3 Discharge for Cause — Exception —The provisions of this rule shall not apply in the event an employee is discharged from the service, whether or not the employee receives a disability retirement.

**RULE 20 MISCELLANEOUS**

- 20.1 REPEALS AND SAVINGS — All matters shall be subject to these rules, and to that extent, all previous Civil Service Rules are hereby repealed.
- 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 period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a city legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a city legal holiday.
  - 20.2.2 Any period of time, except for the stated period of time set forth in rules 18.2 and 18.6, may be extended by the commission 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 prior to the running of the applicable time period.

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