



Civil Service Rules and Regulations

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1. GENERAL PROVISIONS

1.01 Authority and Application.

These rules are promulgated pursuant to the authority granted by Chapter 41.12 of the Revised Code of Washington (RCW). These rules are applicable to proceedings before the Civil Service Commission and should be read in conjunction with the specific provisions of Chapter 41.12 RCW.

1.02 Scope and Purpose.

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

1.03 Presumption of Validity.

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

1.04 Severability.

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

2. ADMINISTRATION AND OPERATIONS

2.01 *Commission—Meetings—Quorum.*

In the necessary conduct of its work, regular meetings of the Commission shall be held as needed in the Lake Stevens Permit Center Conference Room (unless otherwise posted). Notice of a regular meeting shall be given to each Commissioner and to the local news media at least 48 hours before the time of the meeting. The Commission may adjourn any regular meeting for the purpose of continuing it at another specifically designated time or place. Notice of special meetings shall be provided as required by the Open Public Meetings Act (Chapter 42.30 RCW, as amended.). Special meetings of the Commission may be held at such times and places as may be determined from time to time by the Chief Examiner; provided that notice of a special meeting and the subject matter to be considered at that same meeting shall be given to each Commissioner and to the local news media at least 24 hours before the time of the meeting. The Commission shall conduct hearings as required. Notice of hearings shall be provided as required by these rules. Two members of the commission shall constitute a quorum. No action of the Commission shall be effective unless two members concur therein. All Commission meetings or hearings, regular or as required, shall be open and public. Provided, however, that the Commission may meet in executive session as authorized by the Open Public Meetings Act (Chapter 42.30 RCW, as amended). (Commission revised on January 29, 2015; January 14, 2009)

2.02 *Chair--Vice Chair.*

At the first meeting of each year, the Commission shall elect one of its members as Chair and another member to serve as Vice Chair for a term of one year. Should a Chair and/or Vice Chair resign or be removed from the position prior to the expiration of their term, the commission, upon appointment of a new member, shall proceed to the election of a new Chair and/or Vice Chair. (Commission revised on November 17, 2014)

2.03 *Rules of Order.*

Roberts Rules of Order shall be final authority on all questions of procedure and parliamentary law not otherwise provided by these rules. However, with the concurrence of two commissioners such rules may be waived or modified. In quasi-judicial proceedings, the Commission shall be guided, but not bound by, the Civil Rules for Superior Court. (Commission revised on January 14, 2009)

2.04 *Commissioners--Challenge.*

Any challenge to a Commissioner's participation at a hearing shall be made by an interested party prior to the commencement of a hearing. The challenged Commissioners shall review and rule on the challenge prior to proceeding with the hearing. Failure to timely raise a challenge shall constitute a waiver of the challenge by the party unless, in the exercise of reasonable diligence, a basis for challenge is unknown to a party prior to commencement of a hearing. (Commission revised on January 14, 2009)

2.05 *Commissioners--Challenge--Necessity.*

If, as a result of disqualification(s) pursuant to Rule 2.07, there is no longer a lawfully constituted quorum available, then by reason of necessity, the disqualified Commissioner(s) shall return and proceed with the hearing.

2.06 *Office--Hours.*

The office address of the Civil Service Commission is City Hall, 1812 124th Avenue N.E., Lake Stevens, WA 98258. The regular office hours of the Commission Secretary shall be: Monday through Friday, 9:00 a.m. to 5:00 p.m., by appointment.

2.07 *Public Records.*

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

2.08 *Record of Proceedings.*

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

2.09 *Reports--Applicants, Candidates, Employees.*

- a. Each applicant, candidate, and employee shall keep the Commission informed, by written notice to the Secretary, of current address and telephone number, and shall report any change of name through marriage or otherwise.
- b. Each candidate shall keep the Secretary informed, in writing, regarding availability and any refusal to accept appointment or promotion and the reasons therefore.

2.10 *Reports--Appointing Authority.*

The Appointing Authority shall immediately report to the Secretary in such detail and on such forms or manner as the Secretary may prescribe: (Commission revised on March 23, 1992)

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

3. SECRETARY AND CHIEF EXAMINER

3.01 Secretary and Chief Examiner--Appointment.

A Secretary and Chief Examiner, hereinafter referred to as "Secretary," shall be appointed by the Commission.

3.02 Qualifications.

The Secretary shall be appointed as a result of a competitive examination, which examination may be either original and open to all properly qualified citizens of the city, or promotional and limited to persons already in the service of the police, fire, or other city department as the Commission may decide.

3.03 Secretary--Discipline.

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

3.04 Secretary--Authority.

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

- a. Be the general manager and executive officer of the Civil Service Department, responsible to the Commission, and shall direct the activities of all personnel in the Civil Service Department, including their appointments and removals;
- b. Delegate duties where necessary and supervise and direct the work of all persons employed in said Department, including the preparation, conduct, and scoring of examinations, and maintenance of the classification plan;
- c. Report to the Commission from time to time as directed concerning the details of the work of the Department;
- d. Prepare the budget for the Department, approve accounts, and administer generally the expenditure of funds appropriated for the operation of the Department;
- e. 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;
- f. Determine which examinations shall be conducted, the minimum qualifications of applicants, the subjects to be covered in each examination, methods of testing, and the relative weights to be given to the various parts of the examination; supervise the conduct of the examinations, appointing such experts, special examiners, and other persons as he/she may deem necessary; decide all questions relating to the eligibility of applicants, the admissibility of applicants to the examinations, extension of time and all questions arising during the course of an examination; prepare and submit a report to the Commission prior to and after each examination, together with a report on all appeals from rulings or appeals from any part of the examination; and
- g. Perform all other functions necessary for the proper carrying out of these rules and the provisions of law relating to the Civil Service System, and such additional duties as may be assigned to the Secretary from time to time by the Commission.

3.05 *Review of and appeal from Actions or Decisions of the Secretary.*

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

4. DEFINITIONS

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

4.01 *Actual Service.*

Time in which a given employee has been engaged under civil service appointment in the performance of the duties of a position or positions and shall include absences with pay.

4.02 *Allocation.*

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

4.03 *Applicant.*

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

4.04 *Appointing Authority.*

The person or persons authorized to hire, promote or discharge employees pursuant to the Lake Stevens Municipal Code. (Commission revised on January 14, 2009, August 31, 2015)

4.05 *Appointment*

a. *Appointment--Regular.*

The appointment of a certified candidate.

b. *Appointment – Reserve*

A limited appointment of (a) certified person to a classified position which is not vacant, but is currently unfilled due to an authorized leave of absence; or (b) a non-certified person to a classified position for which there is no current candidate register. (Commission added on January 14, 2009)

c. *Appointment--Temporary.*

A limited appointment other than from a candidate register for the purpose of performing work belonging to the classified service. A reduction of a regular employee is not a temporary appointment. Temporary appointment includes emergency appointment. (Commission revised on January 14, 2009)

4.06 *Assignment.*

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

4.07 *Break in Service.*

A separation from Civil Service status with a loss of accumulated service credit as occasioned by a “quit,” “resignation,” “discharge,” or “service retirement”.

4.08 *Candidate.*

Any applicant who has completed, or is in the process of completing, a Civil Service examination and is qualified for a given class through examination and placed on the proper candidate register; also “Certified Candidate.”

4.09 *Candidate Register.*

A list of successful examinees for a given class from which certification may be made to fill vacancies in such class; also “Register of Candidates” or “Eligibility List” (Commission revised on August 30, 2021; January 14, 2009)

4.10 *Cause.*

Cause shall mean good, sufficient or just cause as determined by the Commission; exercised by the appointing authority in good faith and without discrimination on the basis of religion, politics or other protected classification; and, in consideration of the total context of a disciplinary action, including procedural fairness and consideration of an employee’s work record. (Commission added on January 14, 2009)

4.11 *Certification.*

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

4.12 *Certify.*

Verification to the appointing authority that a list of names of candidates for employment has been selected from the list of persons tested and found candidate for employment.

4.13 *City.*

The City of Lake Stevens, Washington.

4.14 *Civil Service Employee.*

Any employee who has Civil Service status. (Commission added on January 14, 2009)

4.15 *Civil Service Register*

See Candidate Register (Commission added on January 14, 2009)

4.16 *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. (Commission revised on January 14, 2009)

4.17 *Class Series.*

Two or more classes which are similar as to line of work but which differ as to the 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, etc.

4.18 *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.

4.19 *Commission.*

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

4.20 *Continuous Service.*

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

4.21 *County.*

Snohomish County. (Commission added on January 14, 2009)

4.22 *Demotion.*

Removal of an employee from a higher to a lower class of employment or salary step within a class. (Commission revised on January 14, 2009)

4.23 *Discharge.*

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

4.24 *Employee.*

Anyone holding a position in the Civil Service System of the City of Lake Stevens, Washington.

- a. **Employee--Regular.** Any employee who has been appointed from a certification and who has satisfactorily served the full probationary period.
- b. **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 (provisional).

- c. **Employee-Exempt.** Any employee in a position of employment which is not subject to Civil Service Rules and Regulations, and in which one serves at the discretion of the appointing authority.
- d. **Employee Probationary.** A person appointed from a certification who has not yet completed the specified trial period of employment. (Commission revised January 14, 2009; September 25, 2000)
- e. **Employee – Provisional.** Any employee appointed provisionally to a position. (Commission revised on January 14, 2009)

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

4.25 Examination.

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

- a. **Examination--Open.** An examination open to any member of the public meeting the requirements as stated in the official bulletin announcing such examination.
- b. **Examination--Promotional.** An examination limited to employees meeting the requirements stated in the official bulletin announcing the examination.

4.26 Examination Bulletin (Official Bulletin).

An examination announcement containing basic information about the class of positions, the requirements for filing, how to apply, and the other pertinent information. The examination announcement shall be posted in the office of Human Resources and in other suitable locations. (Commission revised on August 30, 2021; January 14, 2009)

4.27 Final Examination Score.

Total of earned exam score plus additional veterans' scoring criteria or service credit points for which an applicant is eligible. (Commission added on January 14, 2009)

4.28 In-House Register.

A list of the names of civil service employees, in the order of final examination rating, who have passed an examination for an entrance position or class. (Commission added on January 14, 2009)

4.29 Layoff.

The interruption of service and pay of any regular or temporary employee because of lack of work or funds, except that the terms shall also apply to the separation of temporary employees who have completed the stipulated period of employment. (Commission added on January 14, 2009)

4.30 Official Newspaper.

The newspaper designated as official by the City of Lake Stevens, or as otherwise designated by the Commission.

4.31 Position.

Any group of duties and responsibilities in the service of the City of Lake Stevens which one person is required to perform as full or part time employment.

- a. **Position - Regular.** A position included in the official annual budget that is neither specified as seasonal employment, nor limited for a period of less than the budget year; also any such position established during a given budget year, unless the Appointing Authority certifies to the Civil Service Commission that such position will not be continued in the succeeding year's budget. (Commission revised on January 14, 2009)
- b. **Position - Regular Part-Time.** Employment in a permanent position for work on a basis of less than eight hours a day or less than forty hours a week, but on a regular schedule. (Commission revised on January 14, 2009)

4.32 *Probation or Probationary.*

The status of an employee during a trial period following permanent appointment from a candidate 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.

4.33 *Promotion.*

The appointment of an employee to a higher class or to a position of higher skill or responsibility level other than by a temporary or provisional appointment (1) from a lower class to any position in any higher class in the same promotional series of classes as determined by the Commission, or (2) to a position which although an entrance position is of higher skill and/or responsibility shall constitute a promotion. (Commission added on January 14, 2009)

4.34 *Quit.*

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

4.35 *Reallocation.*

The allocation of a position to a different class in the Classification Plan. (Commission added on January 14, 2009)

4.36 *Reduction.*

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

4.37 *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 4.09, "Candidate Register"/"Eligibility List".

4.38 *Reinstatement.*

Reappointment of a regular employee to a position in a class in which they were a regular employee.

4.39 *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.

4.40 *Resignation.*

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

4.41 *Retention Credit.*

The employee's service credit in a given class or position and any higher position in a series of any other credit used by the Commission to determine order of lay-off. (Commission added on January 14, 2009)

4.42 *Retirement.*

The conclusion of employment from years of service or disability pursuant to applicable retirement laws. (Commission added on January 14, 2009)

4.43 *Secretary.*

Secretary and Chief Examiner as defined in Chapter 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 which could result in demotion or discharge.

4.46 *Unclassified Service.*

The positions in the City of Lake Stevens that are not subject to civil service and are identified as exempt positions, assignment levels, or other position authorized by law. (Commission added on January 14, 2009)

4.46 *Veterans' Scoring Criteria.*

Preference in examinations and employment, based on military service, as provided and defined by applicable laws (formerly known as "Veterans' Preference"). (Commission revised on August 30, 2021)

5. RULE MAKING

5.01 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.

5.02 Effective Date of Rules.

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

5.03 Copies of Rules.

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

5.04 Effect of Rules.

The terms and conditions of civil service employment are governed by these rules, and applicable statute. 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.

6. CLASSIFICATION

6.01 Classification Plan.

A class specification shall be prepared and maintained for each class in the Civil Service System. Such specifications shall describe generally the class, distinguish it from other classes, give examples of typical duties of the class, and contain when applicable, a statement of those qualifications for applicants for positions in the class not otherwise provided in the rules. (Commission revised on January 14, 2009)

6.02 Administration of Position Classification.

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

6.03 Classification Guidelines.

- a. Each position in the classified service shall be classified at the direction of the Secretary and allocated to its appropriate class in accordance with the character, difficulty, and responsibility of its designated duties. Positions shall be allocated to a given class when:
 - (1) The same descriptive title may be used to designate each position in the class.
 - (2) The same level of education, experience, knowledge, ability, and other qualifications may be required of incumbents; and
 - (3) Similar tests may be used to select incumbents.
- b. All classes involving the same character of work but differing as to the level of difficulty and responsibility shall be assembled into a class series.
- c. Compensation or salary shall not be a factor in determining the classification of any position or the standing of any incumbent.
- d. In allocating any position to a class, the specification for the class shall be considered as a whole. Consideration shall be given to the general duties, the specific tasks, responsibilities, the required and desirable qualifications for such position, and the relationship to other classes. The examples of duties in a specification shall not be construed as exclusive or restrictive, and an example of a typical task or a combination of two or more examples shall not be taken, without relation to all parts of the specification, as determining that a position should be included within a class.
- e. It shall be the duty of responsible administrative officers in the various departments to report to the Secretary any and all organization changes which will abolish or affect changes in existing positions or establish new positions. When an appointing authority requests the establishment of any new or additional position of more than 60 days' duration, or a change in allocation of an existing position, a request for such consideration shall be addressed to the Secretary, accompanied by a statement of the duties, responsibilities and qualification requirements of the position. In those instances where gradual shifts in work emphasis or changing work conditions have affected material changes in existing positions, the Secretary shall be notified in writing by the affected Department before the end of the budget year. In those instances in which the

duties of a position are materially changed for other reasons, the Secretary shall be notified immediately and not later than ten (10) days from the date of such change.

g. Assignment. An employee may be assigned to a position which carries additional duties and responsibilities and is within the scope of the specification for the class from which assignment is made. If the duties of the position for which an assignment is proposed are beyond the scope of the official specification for the base class, such position must be separately classified and eligibility established by examination. No permanent or vested rights shall be acquired by reasons of such assignment, and such assignments shall be subject to review and change by the appointing authority at any time.

6.04 *Records. Reserved.*

6.05 *Effect of Classification Changes on Incumbent.*

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

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

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

7. APPLICATIONS AND APPLICANTS

7.01 ***General Requirements for Filing Applications.***

- a. All applicants for examinations for positions in the classified Civil Service must file written application on a form prescribed by the Secretary; and no one shall be admitted to any examination without having first filed an application on the proper form, giving fully, truthfully, and accurately, all information required.
- b. In order to file an application for examination, the applicant must:
 - (1) Meet the requirements specified in these rules and in the official examination bulletin as of the closing day of the official filing period;
 - (2) Produce evidence of education, training, experience, or any lawful requirement for a class, as directed by the Secretary.
- c. Time for filing applications:
 - (1) All applications for examination shall be filed with the Secretary during office hours and within the time limit fixed in the official announcement of the examination; provided that 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.
 - (2) The time for filing applications may be extended by the Secretary as the needs of the service require; provided, that the examination shall then be re-advertised in the official newspaper of the city.

7.02 ***Applications for Promotional Examinations.***

- a. An application shall be accepted from any regularly appointed employee in the classes from which promotion is allowed who, in addition to meeting the requirements of Rule 7.01, has the requisite service credit as designated in the official bulletin.
- b. When designated in the official bulletin, the Secretary may permit regular employees and probationers to file for and take a promotion 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.

7.03 ***Special Requirements.***

- a. The Secretary may prescribe such limits and such other specific requirements, physical or otherwise, as in the Secretary's judgment are required by and related to the work to be performed.
- b. When designated on the official bulletins, the Secretary may permit filing by an applicant not more than one year under the specified minimum age on an open graded/entrance examination, and not more than two years under the specified experience on a promotional examination. A successful candidate will have delayed eligibility until the required minimum age or experience is attained.

7.04 *Conditional Admission.*

If there is reasonable concern as to whether the applicant meets the minimum requirements, the Secretary may order that the applicant be admitted to the examination on the condition that the particular requirements are met to the satisfaction of the Secretary before the applicant is enrolled on a candidate register. (Commission added on January 14, 2009)

7.05 *Rejection of Application or Candidate.*

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

- a. Does not meet the requirements set forth in these rules or in the bulletin announcing the examination;
- b. Is physically or mentally unfit to perform the duties of the position sought;
- c. Has been convicted of any felony or a misdemeanor involving moral turpitude (see Chapter 9.96A RCW);
- d. Has been dismissed or has resigned in lieu of discharge from any position, public or private, for any cause which would be a cause for dismissal from City of Lake Stevens service, or with any other agency or firm;
- e. Has made any material false statement or has attempted any deception or fraud in connection with this or any other Civil Service examination;
- f. Fails to appear for fingerprinting or other investigation as required;
- g. Has assisted in preparing the examination for which application is sought, or has in any manner secured confidential information concerning such examination which might give an unfair advantage over other applicants in the examination;
- h. After notification, did not promptly appear at the time and place designated for the examination; or
- i. Has been discharged from the Armed Forces under dishonorable conditions.
- j. For other material reasons.

Note: See Rule 3.05, "Review and Appeal from Actions or Decisions of the Secretary".

7.06 *Debarment from Employment.*

- a. No one who has been dismissed from the Service for cause involving moral turpitude shall be allowed to again enter the Service, and anyone dismissed for other good cause shall be allowed to again enter the Service only by express consent of the Secretary;
- b. Any applicant for appointment, promotion, reemployment, increase of salary, or other personal advantage, who shall directly or indirectly pay or promise to pay any money or other valuable thing to anyone whatever for or on account of such actual or prospective advantage, shall be ineligible for any further employment in the Civil Service.

7.07 *Notice of Non Acceptance.*

Anyone against whom action is taken under Rule 7.06a shall be notified promptly by the Civil Service Department of the reasons therefore by either oral notice at time of filing the application and/or written notice mailed to the applicant or candidate.

7.08 *Admission to Examination Pending Appeal.*

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

7.09 *Amendment of Application.*

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

7.10 *Applications Not Returned.*

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

7.11 *Application Fee.*

The Secretary may require all applicants to pay a fee at the time of filing an application in an amount sufficient to cover the expenses required to provide examinations used in establishing candidate registers. (Commission revised on January 14, 2009)

8. EXAMINATIONS

8.01 Ordering Examinations.

The Commission shall order an examination whenever it is deemed to be in the best interest of the City of Lake Stevens. The Secretary shall administer examinations as provided by these rules.

8.02 Examination Announcement.

Public notice of examinations may be placed by the Chief Examiner in the official newspaper and in any other publications at least fifteen (15) days preceding such examination. The Subscription Testing Service as part of their agreement with the City may also post notices. The official bulletin shall be posted on the city's website and other designated locations. Promotional examination notices are not required to be advertised but shall be posted in the Chief Examiner's office and in applicable department offices not less than fifteen (15) days preceding the examination. (Commission revised on August 30, 2021; January 29, 2015; November 17, 2014; April 16, 1992)

8.03 Amendments to Announcements.

The Secretary may amend any published announcement with appropriate public notice.

8.04 Continuous Examinations.

- a. A continuous or periodic examining program may be ordered and administered by the Secretary for any class of positions for other than promotional examinations. Filing will be opened, applications received, and the examinations administered, according to the needs of the service. The names of qualified candidates resulting from such examinations shall be entered on the candidate register and certifications for appointments shall be made in the same manner as from any candidate register. Names of candidates from successive examinations in the same program shall be entered on the candidate register for the class at the appropriate places as determined by final grades. Names may be withheld from certification or removed from such candidate registers in the same manner and for the same reasons as from any candidate register.
- b. To expedite certification and appointment and to maintain security of examination material, no keyed copy of the written test will be provided at any time. The candidate register may be promulgated immediately after the results are obtained.
- c. Except as provided above, the rules applicable to other examinations shall apply to continuous and periodic examinations.

8.05 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.

8.06 Testing Services.

8.06.1 Subscription Testing Services.

- a. **Subscription Testing Services Authorized.** The Secretary, following approval by the Commission, may enter into contracts with one or more Subscription Testing Services.
- b. **Subscription Testing Service – Defined.** “Subscription Testing Service” means a person or organization offering a service that test and maintains lists of candidates for employment who have successfully completed Subscription Testing Service process.
- c. **Process Verification.** The Secretary shall verify that the Subscription Testing Service provides qualified testing resources that are content valid and job-related.
- d. **Certification.**
 1. Applicants certified as a qualified candidate by the Subscription Testing Service shall be invited to participate in an oral board as defined in Rule 8.06.2, Section d. As each applicant is placed in accordance with their scores and Veterans’ Scoring Criteria (if applicable) the placement of all others on the list shall be adjusted. (Commission revised on August 30, 2021; January 14, 2009)
 2. Candidates qualified for appointment pursuant to the procedures established in this Rule shall be placed on the eligibility list in the manner described in Rule 9. (Commission revised on January 14, 2009)
- e. **Additional Testing.** Candidates qualified pursuant to a Subscription Testing Service shall be subject to such additional testing as may be required by the Commission or the appointment authority. Such testing may include, but not be limited to, an oral board, background investigation, polygraph, psychological, physical agility testing. (Commission added January 22, 2001 and revised on January 14, 2009)

8.06.2 Continuous Testing.

- a. **Continuous Testing Eligibility List.** The Secretary/Chief Examiner, following approval by the Commission, may establish any eligibility list for use by applicants tested through and certified for eligibility through this continuous testing process.
- b. **Continuous Testing Defined.** Continuous testing shall mean a written examination, oral examination, or a standardized physical fitness/agility test conducted pursuant to set and commonly applied standards whose results shall be valid for a period of one calendar year from the date of certification to a Continuous Testing Initial Eligibility list. Continuous testing may, at the discretion of the Commission, be offered through the Secretary/Chief Examiner or pursuant to a subscription testing agreement. (Commission revised August 30, 2021)
- c. **Certification.** Applicants certified pursuant to a continuous testing process shall be placed on a Continuous Testing Eligibility list. Certification shall be in accordance with the rules and regulations of this Commission. As each applicant is placed in accordance with their scores and Veterans’ Scoring Criteria (if applicable) the placement of all others on the list shall be adjusted. (Commission revised August 30, 2021)
- d. **Additional Testing.** Applicants placed upon this eligibility list shall be subject to such other testing processes as the Commission shall direct, including but not limited to oral boards or any other testing process conducted by the Commission or by a subscriber pursuant to Rule 8.06.
- e. **Removal of Names.** The names of candidates certified to this eligibility list shall remain on the list until either certified to a secondary hiring list following an oral board or other testing as established by the Commission, the expiration of one year from the date of certification, the candidate withdraws from consideration, or until the candidate has been hired by another public safety organization. Names may be removed upon notification by the candidate, upon the written notification of another public safety employer, or an

entity providing subscription testing. (Commission added January 22, 2001) (Commission revised August 30, 2021)

8.07 Content of Examinations.

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

Physical Agility Tests. Physical agility tests will be those currently administered by the Washington State Criminal Justice Training Commission for admission into the Basic Law Enforcement Training course. Test monitors will be selected by the secretary and have the authority to discontinue further testing of an applicant who has failed to pass the test standards. The physical agility test is pass/fail. (Commission revised on August 30, 2021; January 25, 1999)

Written Examinations. The secretary will obtain standardized written tests from a reputable source that can provide appropriate information to justify the questions and answers. Successful applicants must attain a minimum score of 70%. (Commission revised on January 25, 1999)

Oral Board Examination. The Secretary can choose to screen the top scorers from the written test by using an oral interview. All applicants will be asked the same set of questions by a panel of judges selected by the Secretary who will evaluate their responses. The panel will have at least three members. A minimum score of 70% is necessary to pass the oral board examination. (Commission revised on January 14, 2009; January 25, 1999)

Assessment Center Exercise. The Secretary may design an assessment center process using different panels, tasks, and other exercises to evaluate the applicant's knowledge, skills and abilities. The secretary may limit the number of applicants participating in this exercise to a minimum of 10, from the top scorers in the screening examination, if necessary. A minimum score of 70% is necessary to pass this exercise. (Commission revised on January 14, 2009; January 25, 1999)

Competitive Examinations – Promotional Examinations. For all promotional examinations within the department, the Secretary may design a competitive examination process to evaluate the applicant's knowledge, skills and abilities. The competitive examination may include an assessment center process, or written examination. The secretary may limit the number of applicants participating in this exercise to a minimum of 10. A minimum score of 70% is necessary to pass this exercise. (Commission revised March 1, 2017; added August 18, 2010)

8.07.1 Examinations for Experienced Police Officer.

An "Entry Level – Advanced" applicant is defined as:

- Currently attending the Washington State Criminal Justice Training Commission's (WSCJTC) Basic Law Enforcement Academy (BLEA); or
- Graduate of the Washington State Criminal Justice Training Commission's (WSCJTC) Basic Law Enforcement Academy (BLEA) but has not completed the Field Training program (FTO) of a city, county, state, or federal law enforcement agency.

A Lateral Police Officer is defined as:

- Currently employed, full-time, civilian law enforcement officer with a city, county, state or federal agency who has successfully completed the Washington State Criminal Justice Training Commission's Basic Law Enforcement Academy; or
- Has previously worked in the above capacity within the last 24 months; or
- Whose prior training qualifies them to attend the Washington State Criminal Justice Training Commission's Basic Law Enforcement Equivalency Academy.

(Commission revised on August 30, 2021; August 12, 2009; May 7, 2008; January 25, 1999)

The Chief of Police and the Secretary will evaluate the applicant's employment history and training to determine if the applicant qualifies as an experienced Police Officer. Qualifying applicants may be sent a written examination that assesses their experience, writing skills and ability to apply current professional concepts. A panel of evaluators selected by the Chief of Police and Secretary will judge the written examination. A minimum score of 70% is necessary to move to an oral board exercise. (Commission revised on April 7, 2021; May 7, 2008; January 25, 1999)

8.08 *Parts and Weights.*

Each examination shall embrace one or more parts to which a raw score, rank order, or percentage weight shall be assigned. One or more of the following options shall be utilized in scoring an examination.

- a. A raw score (actual number of questions answered correctly) shall be the sole indicator of final score of a written examination, unless otherwise determined by the Commission prior to exam administration.
- b. A rank order list shall be the final result of an assessment center type of examination. The rank ordering shall be determined by the number of points earned in an assessment center. Assessors retained by the Commission shall have the latitude and flexibility of recommending individuals for promotion in addition to not recommending individuals for promotion, thus not including those individuals on the eligibility list who do not receive recommendations.
- c. A percentage weight shall be determined by multiplying the weight assigned to one or more parts of an examination and the sum of the resulting products, to be called the "weighted average".
- d. A rank order list shall be the final result of a competitive examination process as defined in section b above. (Commission added August 18, 2010)

8.09 *Passing Grades.*

- a. A final minimum passing score required shall be determined by the Commission prior to any examination in which a raw score is utilized.
- b. Where an examination consists of two or more parts, the Commission may set a minimum score to be required in any part of such examination, and any applicant who fails to attain such minimum score shall be considered as having failed in the entire exam and shall not be entitled to take the balance of the exam. The minimum score required, and the part of the exam to which it is applicable, shall be stated in the official bulletin or announced at the time of the examination.
- c. If a minimum score is not determined by the Commission prior to any examination, then the minimum scores for each examination shall default to the standards described in Section 8.07, "Contents of Examinations." (Commission added on January 14, 2009)

8.10 *Promotional Examinations.*

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

8.10.1 *Promotional Examination Process.*

The minimum qualifications for all Civil Service covered positions are contained in the current job descriptions. The promotional examination process may be an assessment center and/or written exercise that evaluates the applicant's knowledge of law, department policy, and current professional practices; skills in oral communication and writing; judgment; and ability to apply supervisory practices to a variety of situations. The promotional examination may be announced and applications accepted when vacancies occur or the certified eligibility list has expired or has been exhausted. The announcement shall contain a description of the exam process. The assessment exercise may be administered and scored in accordance with this chapter and the eligibility list certified by the commission at a regular meeting. (Commission revised on March 1, 2017; November 17, 2014; March 27, 2006; January 25, 1999)

8.11 *Open Graded Examinations.*

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

8.12 *Veteran's Credit.*

Veterans, who have passed an examination, shall be entitled to credit pursuant to Chapter 41.04 RCW. (A copy of pertinent provisions of Washington State law relating to veterans scoring criteria in employment is attached as Appendix B to these rules.) (Veteran's otherwise qualified shall be entitled to a credit equal to 10% of the points earned on the examination.) (Commission revised on April 16, 1992)

8.13 *Reserve Officer Credit.*

Lake Stevens Reserve Police Officers who meet the minimum qualifications for an entry-level position and have graduated from the Reserve Police Officer Academy, will be entitled to a credit equal to 4% of the points earned on the examination for each year of service as a Reserve Officer up to a maximum of 12%. Credit provided herein shall not be combined with or added to any other credit provided for under these Civil Service Rules. (Commission revised on May 7, 2008; October 29, 2001; January 25, 1999)

8.14 *Keyed Copy Inspection and Examination Protest.*

- a. 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) working days immediately following the administration of such part, or within the time limit specified on the examination instruction sheet.

- b. 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. No keyed copy will be provided for inspection on standardized tests or on continuous or periodic examinations.
- c. 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 in writing within three (3) working days after the notices of results have been mailed.
- d. Any protest against scoring or any allegation of clerical error in the final results of an examination must be filed in writing within three (3) working days after notices of results have been mailed.
- e. 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.

8.15 Correction of Clerical Errors.

Any clerical error may be corrected by the Secretary upon discovery at any time during the life of the candidate register, but no such correction shall affect an appointment made from a certification made prior to the correction.

8.16 Effective Date of Examination Results.

Results of an examination shall become effective on the date official notice is submitted to examination applicants.

8.17 Reexamination.

- a. No one shall be reexamined for the same class within three months of the effective date of such examination, unless authorized by the Secretary upon determination that it would be in the best interest of the City of Lake Stevens. (Commission revised on January 14, 2009)
- b. If a candidate 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 candidate shall be used.

8.18 Examination Papers.

Examination papers of each candidate shall be kept on file in the office of the Commission until the expiration of eligibility.

8.19 Additional Examination.

- a. Candidates certified pursuant to Rule 9, shall be subject to medical, physical, or psychological examination and to such other examinations administered by the Police Department as authorized and approved by the Commission. Such other examinations include, but are not limited to, background examination and polygraph. Reports of such examination shall be filed with the Commission in the event the findings of the examination recommend that the candidate be rejected. The Secretary shall consider such recommendation, may require further examination, and may order the candidate's name dropped from the candidate register. (Commission revised on April 16, 1992)

- b. The Secretary may designate a limited number of certified candidates for additional examination as provided in Rule 8.20a, in order to maintain an ability to certify registers pursuant to Rule 10.
- c. Before the Appointing Authority refers a candidate for medical (including mental health) examination, a conditional offer of employment must be made. (Commission added on January 14, 2009)

8.20 Number of Applicants – Limitations.

The Secretary may restrict the number of qualified applicants to be examined whenever an examination for a position attracts large numbers of qualified applicants. The Secretary may limit eligibility in subsequent exam parts to those scoring highest on a preliminary test or series of tests. (Commission added on January 14, 2009)

9. REGISTERS AND ELIGIBILITY

9.01 *Establishment of Candidate Registers.*

After each examination, a candidate register for the class shall be updated on which the names of successful candidates shall be ranked as follows (Commission revised on August 22, 2013):

- a. On a promotional register: relative rank shall be determined by the examination rating or grade, plus any additional percentage allowed by law for veterans' scoring criteria.
- b. On an open graded register: relative rank shall be determined by the examination grade, plus percentage allowed by law for veterans' scoring criteria.
- c. Priority of time of examination shall not give any preference in rank on the register.
- d. The preference in rank of candidates having equal final general averages shall be determined as follows, in the order stated:
 - (1) The one who qualifies for veterans' scoring criteria in accordance with Washington State law. Candidates on a promotional register do not so qualify.
 - (2) When the examination is composed of two or more parts with separate grades, the one who has:
 - (a) The highest grade on the most heavily weighted part of the examination; if a tie still exists, then the highest grade on the next most heavily weighted part, and so on for as many parts as the examination contains.
 - (b) The highest grade on the written test if all parts are weighted equally.
 - (3) When the examination has only one part, or the candidates have the same standing under (1) and (2) above:
 - (a) As between examinees who are City of Lake Stevens employees, the one having the greater service duration with the City of Lake Stevens, regardless of class or department.
 - (b) If one is a City of Lake Stevens employee and the others are not, the City of Lake Stevens employee has preference.
 - (4) By lot.
- e. If an applicant is permitted to file for and take an examination for delayed eligibility and if such applicant is successful in the examination, eligibility shall be held in abeyance until the candidate meets the requirements for eligibility, which must be reported in writing. If otherwise eligible, the candidate's name shall be placed on the register in accordance with the final examination grade. Any such eligibility shall expire with that of other candidates from the same examination.

9.02 *Return to Candidate Register After Resignation or Retirement.*

- a. A former employee who resigned or retired may request return of his name to the proper open graded candidate register for the class. Such request must be made within one (1) year from the date of resignation or retirement; provided, the Secretary may extend the above time limitation for not to exceed an additional four years, upon satisfactory showing that such extension would be in the best interest of the City of Lake Stevens;
- b. Any request for return to the register following resignation or retirement, must be supported by written recommendation of the former employing department;
- c. A former employee whose eligibility is reinstated under this rule shall be certified according to Civil Service rules. However, the name of such a candidate need be

considered only by the department which recommends the return of the name to the register.

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

9.03 *Appointment without Examination.*

Except as provided in Rules 9.02 and 9.04, any return to the civil service shall be by examination only.

9.04 *Establishment of Reinstatement Registers.*

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

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

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

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

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

9.05 *Duration of Candidate Registers.*

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

b. In no event shall a candidate's eligibility remain in force for longer than twenty-four (24) months. Each candidate's eligibility expiration date shall be listed on the register for the class. (Commission revised on August 22, 2013)

c. After each examination, the eligibility register for the class shall be updated to include the additional successful candidates in ranked order by exam score. Candidates in the military service of the United States shall be entitled to extended eligibility equivalent to the period to which he was entitled at the time of entering the military service; provided written request for extended eligibility is filed with the Civil Service Department within ninety (90) days of termination of active military service. If any change is made in an examination program, a new eligibility list will be generated and any active eligibility list will expire. (Commission revised on August 22, 2013)

d. Eligibility upon return of a name to a candidate register following resignation shall be for two years from such return.

e. An employee who accepts a position in another class in the same department, or accepts an appointment in another department, or is laid off, shall retain all earned eligibility for the periods provided for in Rule 14, except that if an appointment is accepted in another

department (whether following a layoff or otherwise), continuation of the departmental promotional eligibility for the first department shall be at the option of that department.

9.06 *Change of Availability of Candidates.*

- a. It shall be the responsibility of a candidate to immediately notify the Civil Service Department in writing of changes in address, telephone number, change of name through marriage or otherwise, or any changes which may affect availability for employment.
- b. In the event the candidate is unable to continue the process, the candidate will notify the Secretary in writing of the candidate's unavailability for the position. (Commission revised on January 14, 2009)

9.07 *Cancellation of Eligibility.*

- a. Anyone's name may be removed from a candidate register for failure to pass a required examination or upon receipt of proof of bad character or other unfitness; fraudulent conduct; false statements by the candidate or by others with the candidate's collusion; material physical or mental disability; or other disqualifying factor in connection with any application, examination for, or securing of an appointment. A previous unsatisfactory work record with the City of Lake Stevens or dismissal from the service, or dismissal from any position, public or private, for any cause which would be a cause for dismissal from the City of Lake Stevens service, shall be deemed cause for cancellation of eligibility; (Commission revised January 14, 2009; September 25, 2000)
- b. Separation from the service will terminate any promotional eligibility;
- c. Failure to respond to an inquiry from the Appointing Authority may result in the Secretary striking the candidate from the candidate list (Commission added January 14, 2009).
- d. Failure to accept all the conditions of employment as listed in a Conditional Offer of Employment, or has refused to accept employment, the Secretary may strike the candidate's name from the register; (Commission revised January 14, 2009; September 25, 2000)
- e. Failure to respond to the canvass of a register within fourteen (14) days from such canvass, failure to make deadlines for requests for information by the appointing authority, provide material requested by the appointing authority, or to make appointments for required examinations shall be deemed cause to strike the name of any candidate from the register; (Commission revised January 14, 2009; September 25, 2000)
- f. Refusal to accept reemployment in a permanent position shall constitute separation from the service except as provided in Rule 9.04e.
- g. Such action contemplated by this Rule may also be taken for other material reasons.
- h. Any applicant may voluntarily remove their name from the eligibility list by signing the appropriate form provided by the Secretary or by sending a signed statement to the Commission requesting such action. No prejudice will be attached to an applicant who voluntary removes their name from an eligibility list. (Commission added on January 25, 1999; revised on January 14, 2009)

9.08 *Restoration of Names to Candidate Registers.*

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

10. CERTIFICATION AND APPOINTMENT

10.01 General Provisions.

Vacancies in the classified Civil Service shall be filled by reinstatement, promotional appointment, assignment, original appointment, transfer, reduction, demotion. In the absence of an appropriate register, the Secretary may authorize a temporary or provisional appointment. (Commission revised on January 14, 2009)

10.02 Request for Certification.

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

10.03 Certification.

- a. **CANDIDATE REGISTER.** Certification to fill a vacancy shall be made by the Civil Service Department from registers in the following order and as provided in this Rule:
 - (1) Reinstatement
 - (2) Promotional
 - (3) Original (Commission revised on January 14, 2009)
- b. **ORDER OF REINSTATEMENT - CANDIDATE:**
 - (1) If a vacancy is to be filled from the reinstatement register, the following shall be the order of certification:
 - (a) Regular employees in the order of their length of service. The regular employee on such register who has the most service credit shall be first reinstated. (Commission revised on January 14, 2009)
 - (b) Probationers, without regard to length of service. The names of all probationers upon the reinstatement register shall be certified together.
 - (2) Upon request from the appointing authority, the Secretary may authorize the reinstatement out of such regular order upon a showing of efficiency or that such action is for the good of the service, after giving the employees adversely affected an opportunity to be heard.
 - (3) Nothing in this rule shall prevent the reinstatement of any regular or probationary employee for the purpose of transfer to another department, either for the same class or for voluntary reduction in class, as provided in these rules.
- c. **CERTIFICATION.**
 - (1) If a vacancy is to be filled from a promotional register, the Secretary shall certify to the appointing authority the names of the five (5) available candidates who stand highest on the appropriate register. (Commission revised on May 7, 2008)
 - (2) If a vacancy is to be filled from an original register, the Secretary shall certify to the appointing authority the names of up to five (5) qualified available candidates who stand highest on the appropriate register. (Commission revised on May 7, 2008)

- d. **MULTIPLE VACANCIES.** If two or more vacancies are to be filled from any of the above registers other than the reinstatement register, the name of one additional person shall be certified for each additional position.
- e. **ADDITIONAL NAMES.** If an appointing authority makes an acceptable showing that any of the candidates certified are not available or that they do not respond, sufficient additional names shall be furnished to complete the certification.
- f. **SPECIAL SKILLS.** Where a certification of candidates with special experience, training, or skills is requested in writing by the appointing authority as being necessary for satisfactory performance in a particular position, and the Secretary determines that the reasons fully justify the request, a certification may be made of only the highest ranking candidates who possess the special qualifications. (Commission revised on January 14, 2009)
- g. **PRIOR SERVICE.** If a temporary vacancy is to be filled from an open or a promotional register, those candidates with three months of service who are shown on the register as having been laid off within the last twelve (12) months from the department in which the vacancy exists, shall be placed in grade order at the head of the list of candidates for certification according to rule.
- h. **APPLICATION/EXAMINATION.** The application and the examination papers of a certified candidate shall be available for inspection by the appointing authority.

10.04 Deferment of Certification.

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

10.05 Duration of Certification.

Certification shall be in effect for thirty (30) days from its date of issuance. The appointing authority must report of any appointment from such certification with the Secretary. Upon request, the Secretary may extend such certification for additional thirty (30) day periods. Expiration of eligibility shall not cancel the validity of a certification. (Commission revised on April 16, 1992)

10.06 Regular Appointment.

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

10.07 Temporary Appointment.

Where there is no suitable candidate register from which certification can be made, the Secretary may allow the appointing authority to recommend a temporary appointment. A temporary appointment may be made for a period of up to six months. A temporary reserve appointment may be made for a period of up to twenty-four months, and may not be extended for a longer period of time. No person shall receive more than one temporary appointment in any twelve-month period unless authorized by the Commission upon written notice provided by the appointing authority showing that unique circumstances exist to require subsequent appointments.

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All temporary employment in a class shall cease at the earliest possible date and shall not exceed thirty (30) days from date of notice that a proper candidate register for such class is available. An extension may be granted by the Secretary upon satisfactory written notice provided by the appointing authority. (Commission revised on January 14, 2009; April 16, 1992)

11. PROBATION

11.01 Probationary Period.

- a. After each full-time or part-time permanent appointment from a candidate 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. (Commission revised on January 14, 2009)
- b. If a probationer transfers in the same class from one City department or division to another, the receiving department or division may, with the approval of the Secretary, require that a complete probationary period be served in that department or division. (Commission revised on January 14, 2009; September 25, 2000)
- c. A regular employee who has been reduced to a lower class in which he or she has not had regular standing shall have probationary status in the lower class for 12-months from the date of such reduction. (Commission added on January 14, 2009)

11.02 Length of Probationary Period.

For Police Officers, the period of probation shall be equivalent to twelve months of full-time service following successful completion of Basic Law Enforcement Academy as administered by the Criminal Justice Training Commission. For all other employees, the period of probation shall be equivalent to twelve months of full-time service following completion of basic training. Minor absences due to vacations, annual military leave, illnesses, shall not be construed as interrupting the probationary period unless an absence or absences are considered to be excessive to the extent that the Secretary will approve a departmental request for an extension of the probationary period. The appointing authority may request that the probationary period be extended up to three months. (Commission revised on January 14, 2009; September 25, 2000)

11.03 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. (Commission revised on January 14, 2009)

11.04 Service in Another Class.

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

11.05 Removal of Probationer.

- a. **GROUNDs.** The appointing authority, by assigning in writing to the Commission the reasons therefore, may discharge any probationer. Such reason need not constitute just cause and shall not otherwise be reviewed by the Commission except as provided in Rule 19.01b. (Commission revised on January 14, 2009)

- b. **PROCEDURE.** The Appointing Authority must notify the Secretary in writing 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 with the Secretary. (Commission added on January 14, 2009)
- c. **RIGHTS RETAINED.** A promotional probationer, unless discharged for cause, retains all civil service rights to the position from which appointed. Such rights shall be retained whether promotion is to an entrance or promotional position. (Commission added on January 14, 2009)

11.06 Demotion.

- a. A probationer may be demoted for inability to satisfactorily perform the duties of the position to which he was appointed, in accordance with Rule 17.02 on demotion; or may be allowed eligibility for another position in the same class, for which he is deemed qualified by the appointing authority, subject to approval by the Commission.
- b. A probationer demoted to a class in which he or she has not held regular standing shall start a new period of probation.

11.07 Protests.

Any probationer may file a written protest with the Secretary protesting a termination or demotion. All protests must be filed within ten (10) days of notice of the action taken. The Secretary will give due consideration to and take appropriate action on all timely-filed protests. Probationers may appeal a decision of the Secretary to the Commission under Rule 17. (Commission added on January 14, 2009)

12. SERVICE CREDIT (Reserved)

13. TRANSFER-REDUCTION

13.01 General.

The transfer of an employee shall not constitute a promotion in the service, except as provided in 13.03(4) below. (Commission revised on January 14, 2009)

13.02 Intra-Departmental Transfers.

An appointing authority may transfer an employee from one position to another position in the same class in their department without prior approval of the Secretary, but must report any such transfer to the Civil Service Department within five days of its effective date. (Commission added on January 14, 2009)

13.03 Process.

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

- (1) Transfer in the same class from one department to another; such a transfer may be made concurrent with the appointment of an employee to another class;
- (2) Transfer to another class in the same or a different department in case of injury in line of duty either with the City service or with the armed forces in time of war, resulting in permanent partial disability, where showing is made that the transferee is capable of satisfactorily performing the duties of the new position;
- (3) Transfer, in lieu of layoff, may be made with limited standing to a single position in another class in the same or a different department, upon showing that the transferee is capable of satisfactorily performing the duties of the position, and that a regular employee or probationer is not displaced. Regular standing in the new class may be attained by the employee only through examination and permanent regular appointment.
- (4) 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 regular employee or probationer is not displaced and when transfer in lieu of layoff under Rule 13.03(3) is not practicable. Regular standing in the new class may be attained by the employee only through examination and permanent regular appointment.
- (5) The Secretary may approve a transfer under (1), (2), (3), or (4) above with the consent of the appointment authority of the receiving department only, upon a showing of circumstances justifying such action.

13.04 Limit of Rule.

These rules have no authority or effect on positions or departments not subject to the Civil Service. Transfer to or from positions or departments not subject to the Civil Service are unaffected by these rules. (Commission revised on January 14, 2009)

13.05 Reduction. *(Commission added on May 7, 2008)*

- (1) AUTHORIZED. As defined in rule 4.36, a reduction is the movement of an employee from a higher class to a lower class of employment for reasons other than cause. A reduction may be made only upon an employee's written request and consistent with these Rules.
- (2) APPLICABLE CLASSES. A reduction may be approved for:
 - (a) the next lower or any lower class in the Class Series containing the class from which reduced;
 - (b) any lower class in which the employee has previously acquired Regular Standing, provided there has been no intervening forfeiture; or
 - (c) any lower class which is substantially similar to any lower class (in the employee's current class series) in the position classification plan; or
 - (d) employee's seeking return to employment or re-employment from a disability, to a vacant position in another permissible class or department for which the employee qualifies.
- (3) PROCEDURE.
 - (a) A request for reduction must be submitted in writing to the Secretary. The request must include a statement of reasons.
 - (b) The reduction must be approved by the Police Chief and City Administrator, and reported to the Commission.
 - (c) The reduction shall take effect on the date ordered by the Secretary.
- (4) EFFECT OF REDUCTION.
 - (a) Upon the effective date, or following satisfactory completion of any trial period, the reduction shall be complete and the employee shall have Regular Standing in the lower class and department to which reduced.
 - (b) An employee reduced shall be able to return to the former position only by examination and regular appointment. In the event of a recovery from disability, an employee reduced in class may be eligible for appointment from a reinstatement register.
- (5) REDUCTION AVAILABLE.
 - (a) By Employee. A voluntary reduction may be sought by an employee for any vacant position in a class under Section 13.05.02.
 - (b) By Department.
 1. Employees with Standing. Reduction involuntarily of an employee from a higher civil service class to a lower civil service class is governed by Rule 14, Layoff. Return of an employee from an exempt position to a civil service position is governed by Rule 15, Leaves of Absence.
 2. Employees without Standing. When an employee is reduced from an exempt position, the employee may petition in writing the Commission within 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 System. The Commission's decision shall be deemed permissive and discretionary, and an employee shall have no claim or cause for denial of placement on a reinstatement register.

(6) The employee shall serve a designated trial period of one (1) month's service from the effective date of the reduction, in the position to which reduced for the sole purpose of satisfying the Commission that employee is capable of satisfactorily performing the functions and duties of such position or class (Commission added January 14, 2009).

Provided, the Commission may for cause shown, at any time during the prescribed trial period, extend, shorten, modify or waive in whole or in part the duration or balance of such period.

14. LAYOFF

- a. In a given class in a department, the following shall be the order of layoff:
 - (1) Provisional appointees;
 - (2) Temporary or intermittent employees not earning service credit;
 - (3) Probationers (except as their layoff may be affected by military service during probation);
 - (4) Regular employees in the order of their length of service, the one with the least service being laid off first. (Commission revised on January 14, 2009)
- b. **LAYOFF OUT OF ORDER.** The Secretary may grant permission for layoff out of the regular order, upon showing by the Appointing Authority of a necessity therefore in the interest of efficient operation of the department, after giving any affected employee or employees an opportunity to be heard. (Commission revised on January 14, 2009)
- c. **REDUCTION IN LIEU OF LAYOFF.** At the time of any layoff, a regular employee or a promotional probationer shall be given an opportunity to accept reduction to the next lower class in a series of classes in his department, or he may be transferred as provided by Rule 13.03(3), Transfer in Lieu of Layoff. (Commission revised on January 14, 2009)
- d. **TRANSFER IN LIEU OF LAYOFF.** An employee so reduced shall be entitled to credit for any previous regular service in the lower class. (Commission revised on January 14, 2009)

15. LEAVES OF ABSENCE

15.01 Duration of Leaves.

- a. A leave of absence without pay for a period not exceeding thirty (30) consecutive days may be granted by the Appointing Authority, who shall give notice of such leave to the Commission.
- b. A request for leave of absence longer than thirty (30) days bearing the favorable recommendation of the employee's Appointing Authority may be granted by the Secretary, who shall give notice of such leave to the Commission.
- c. No employee shall be given leave to take a position outside the City of Lake Stevens service, except where it appears in the best interest of the City of Lake Stevens.

15.02 Cancellation/Revocation.

Any leaves of absence without pay within a department may be cancelled whenever any necessity arises in the good-faith judgment of the Appointing Authority. The Appointing Authority 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 reasonably possible on written notice from the Appointing Authority of the cancellation or revocation of leave. A copy of such notice shall be filed with the Secretary. (Commission added on January 14, 2009)

15.03 Return From Leave.

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

15.04 Military Leave.

See City of Lake Stevens policy and Washington State law relating thereto.

15.05 Filling Vacancy.

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

15.06 Protests.

All protests to any action pertaining to leaves of absence shall be filed with the Secretary within ten (10) days of notice of such action. The Secretary shall give due consideration to and take appropriate action on all timely-filed protests. (Commission added on January 14, 2009)

16. RESIGNATION

16.01 How Submitted.

Resignation of any employee from the service shall be made in writing and filed with the Secretary after approval by the appointing authority.

16.02 Withdrawal of Resignation.

The Commission may 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 appointing authority.

16.03 Return to Candidate Register Following Resignation.

See Rule 9.02.

17. DISCIPLINE AND DISCHARGE

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17.01 Suspension.

- a. The Appointing Authority may suspend a subordinate, with or without pay, for a period not to exceed thirty (30) days, for good cause.
- b. Any deprivation by a Appointing Authority 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.

(Commission added on January 14, 2009)

17.02 Demotion - Discharge. *(Commission revised on May 7, 2008)*

- a. The Appointing Authority may discharge an employee or demote an employee to a lower class for cause. An employee so demoted shall lose all rights to the higher class. If the employee has not had previous standing in the lower class, such demotion shall not displace any other regular employee or any probationer.
- b. The Secretary must be satisfied as to the ability of such demoted employee to perform the duties of the lower class. The demoted employee may be required to actually serve a trial period in the class to which demoted, for such time and upon such terms and conditions as the head of the department may provide in the demotion order, for the sole purpose of determining the capability to satisfactorily perform the functions and duties of such class.
- c. 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 shall have the status, rank and standing of the lower class to which demoted, and such class and department shall be deemed to be the employee's regular class and department for purposes of these Rules until an authorized change is made.

17.03 Discipline--Good Cause--Illustrated.

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

- a. Incompetency, inefficiency, or inattention to, or dereliction of duty;
- b. Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any willful failure on the part of the employee to properly conduct themselves;
- c. Mental or physical unfitness for the position which the employee holds;
- d. Dishonest, disgraceful, or prejudicial conduct;
- e. Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid, or preparation to such extent that the use thereof interferes with the mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under the Civil Service;
- f. Conviction of a felony, or a misdemeanor involving moral turpitude;
- g. False or fraudulent statements or fraudulent conduct by an applicant, examinee, candidate, or employee, or such actions by others with their collusion;

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- h. Willful or intentional violation of any lawful and reasonable regulation, order, or direction made or given by a superior officer;
- i. Willful or intentional violation of any of the provisions of these rules.
- j. Any other cause, act or failure to act which, under law or these Rules, or the judgment of the Commission, is grounds for dismissal, discharge, removal or separation from the service, demotion, suspension, forfeiture of service credit, deprivation of privileges or other disciplinary action. (Commission added on January 14, 2009)

18. PREDISCIPLINARY HEARING

18.01 Pre-disciplinary Hearing--Required.

The Appointing Authority shall provide and arrange for a pre-disciplinary hearing prior to demotion, suspension or discharge of an employee. The hearing under this Rule 18 is not subject to Rule 19, and does not require witnesses, presentation of evidence or other formalities. It is an opportunity for an employee to present to the Appointing Authority the employee's response prior to the decision on discipline. (Commission revised on January 14, 2009)

18.02 Pre-disciplinary Hearing Standards/Notice of Discipline.

- a. An employee shall be provided, in writing, with a notice of the charge and an explanation of the department's evidence. The employee shall be given an opportunity to respond to charges, orally and in writing, as to why the department's proposed action should not be taken.
- b. The employee may have legal counsel or union representation present at a pre-disciplinary hearing.
- c. The department's explanation of the department's evidence at the pre-disciplinary hearing shall be sufficient to apprise the employee of the basis for the proposed action. This rule, however, shall not be construed to limit the employer at subsequent hearings, from presenting a more detailed and complete case, including presentation of witnesses and documents not available at the pre-disciplinary hearing (Commission revised on January 14, 2009; July 27, 1992).
- d. Should the appointing authority determine to discipline following the predisciplinary procedure, written notice of discipline shall be given to the employee. Such notice shall include the charges against the employee and a general statement of the evidence supporting the charges.
- e. The Commission shall not consider, on appeal, any basis for disciplinary action not previously presented to the employee.

19. HEARINGS

19.01 Hearings--Demands for Investigation--Appeals.

- a. Any regular employee who is demoted, suspended, or terminated, may file a written demand for investigation with the Commission.
- b. Any employee who is alleged to be probationary by the disciplining department may only appeal to the Commission issues regarding probationary status and whether the procedures for discharge of probationers, as found in these rules were properly followed. (Commission revised on January 14, 2009)
- c. An employee, or department, who is adversely affected by an alleged violation of Civil Service Rules or City of Lake Stevens Ordinances or policies, may appeal such violation to the Commission.

19.02 Appeals--Time--Form.

A notice of appeal shall be filed at the Commission office within ten (10) days of the action that is the subject of the appeal. The notice of appeal shall be in writing and include the mailing address and street address where service of process and other papers may be 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. Failure to file a notice of appeal in accordance with these rules, within 10 days, terminates the right of appeal (Commission revised on January 14, 2009)

19.03 Exhaustion of Administrative Remedies.

- a. The Secretary may direct the employee to exhaust available administrative procedures regarding a disciplinary matter, before scheduling the matter for hearing before the Commission. See Rule 18. (Commission revised on January 14, 2009)
- b. 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. (Commission revised on January 14, 2009)

19.04 Authority of Secretary and Chief Examiner/Staff.

- a. The Secretary and Chief Examiner to the Commission shall have the authority to make orders of preliminary matters, including motions for discovery and to compel discovery, continuance, protective orders, and other similar matters. Such orders may be appealed to the Commission. The Secretary and Chief Examiner may also conduct pre-hearing settlement conferences in order to encourage resolution of contested matters, issue subpoenas, and note depositions. (Commission revised on July 27, 1992)
- b. The Commission may authorize the Commission staff to investigate any reports or appeals relating to the enforcement or application of the Civil Service or those rules which do not involve a disciplinary proceeding. The staff shall report the results of the investigation to the Commission in an open meeting. On the basis of such report, the Commission shall either dismiss the report or appeal as being without basis, or set the matter for a full hearing.

- c. As an aid to investigations authorized by the Commission, the Secretary and Chief Examiner may subpoena any documents that would be discoverable for purposes of hearing preparation and may take depositions by tape recorder or otherwise of any person who may have relevant knowledge. Depositions so taken shall be kept as part of the records of the Commission. (Commission revised on January 14, 2009)

19.05 Appeals—Initial Review.

The Secretary and Chief Examiner shall review all appeals to determine whether the employee has timely filed an appeal and whether the action appealed is a final action. Upon determination that the filing is not timely, the Secretary and Chief Examiner shall issue a written order of dismissal with prejudice, setting forth the basis of the dismissal. In the case of an action that is not final, the filing shall be stayed until such action becomes final. Such orders may be appealed to the Commission. (Commission revised on January 14, 2009)

19.06 Appeals—Notice of Hearing.

Upon receipt of a notice of appeal, the Commission staff shall forward a copy to other affected parties. As soon as possible thereafter, but in any event within ten (10) days, a scheduling/pre-hearing conference before the Commission shall be set, with each party to be afforded not less than ten (10) days notice of such hearing. Subsequent hearings on the same appeals shall have at least one week's notice unless waived by the parties. All parties may agree to waive the notice provisions and time limits provided by this Section. (Commission revised on January 14, 2009)

19.07 Appeals—Withdrawal, Modification, or Compromise.

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. (Commission revised on January 6, 2010)

19.08 Service of Process—Papers.

- a. The Commission staff shall cause to be served all orders, notices, and other papers issued by the Commission, together with any other papers that the Commission is required by these rules to serve. Every other paper shall be served by the party filing the notice, document, or paper.
- b. All notices, documents, or papers served by either the Commission or a party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers shall be by personal service, by registered or certified mail, or by regular mail with written acknowledgment of such mailing attached to the papers so served. Written acknowledgment shall be by affidavit of the person who mailed the papers, or by certificate of any attorney or Secretary and Chief Examiner.
- c. Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail (U.S. or inter-city), upon properly stamped and addressed deposit in the mail system. (Commission revised on January 14, 2009)
- d. Papers required to be filed with the Commission shall be deemed filed upon actual receipt of the papers by the Commission staff at the Commission office. All papers except an original appeal notice shall be served with the original and three copies. Briefs and

memoranda must be filed with the Commission at least three (3) days prior to any hearing involving matters discussed in such brief or memoranda. Documentary evidence is not required to be filed, but, rather, provided at the hearing. (Commission revised on January 14, 2009)

e. An appellant or petitioner is responsible for notifying the Commission in writing of any change in mailing or street address and telephone number. Failure to so notify the Commission shall constitute a waiver of service and notice under these rules. (Commission revised on January 14, 2009)

19.09 *Discovery.*

- a. Parties to a proceeding are required to provide each other reasonable access to and discovery of all relevant information concerning the matter before the Commission. Any questions concerning relevancy or access shall be resolved by order of the Secretary.
- b. Upon the failure of any party to comply with an order of the Secretary compelling discovery, the Secretary shall schedule the matter before the Commission for review and determination of appropriate sanctions.

19.10 *Subpoenas.*

- a. Every subpoena shall identify the Commission and the title of the proceedings, if any, and shall command the person to whom it is directed to attend, at a specified time and place, and give testimony or produce designated books, documents, or things under that person's control.
- b. Upon application of any party or his/her representative, the Secretary shall issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The party requesting the subpoena is responsible for having the subpoena properly served. Requests for subpoenas shall be submitted to the Commission offices at least three (3) days prior to the hearing.
- c. Service of subpoena shall be made by serving a copy of the subpoena on the person named therein.
- d. The person serving the subpoena shall make proof of service by filing the subpoena at the Commission office; and if such service has not been acknowledged by the witness, the person serving subpoena shall make an affidavit of service. Failure to file proof of service does not affect the validity of service.
- e. Upon a motion promptly made by a party or by the person to whom the subpoena is directed, and upon notice to the party on whose behalf the subpoena was issued, the Commission may:
 - (1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or
 - (2) Condition denial of a motion to quash or modify upon just and reasonable conditions.

19.11 *Burden of Proof.*

At any hearing on appeal from a demotion, suspension, or termination, the disciplinary authority shall have the burden of showing by a preponderance of the evidence that its action was for cause. At any other hearing, the petitioner or appellant shall have the burden of proof by a preponderance of the evidence. (Commission revised on January 14, 2009; July 27, 1992)

19.12 *Evidence.*

- a. Subject to other provisions of these rules, all competent and relevant evidence shall be admissible. In passing upon the admissibility of evidence, the Commission shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in the superior courts of the State of Washington.
- b. 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.
- c. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The Commission may exclude inadmissible evidence and may order cumulative evidence discontinued in its discretion, either with or without objection. A party objecting to the introduction or exclusion of evidence shall state the grounds of such objection at the time such evidence is offered or excluded. No such objection shall be deemed waived by further participation in the hearing.
- d. At any hearing before the Commission when documentary exhibits are to be offered into evidence, copies shall be furnished to the opposing party, to each Commission member, and to the Secretary-Chief Examiner.
- e. Parties are encouraged to stipulate to the admissibility of documentary exhibits. To further this end, parties will make request of other parties for such stipulation 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.
- f. An employee has the right to appear before the Commission with or without counsel and to be heard in the employee's defense. (Commission added on January 14, 2009)

19.13 Deliberation.

The Commission may deliberate in closed (executive) session when taking a disciplinary or other quasi-judicial case under advisement. Deliberations by the Commission shall otherwise be subject to Chapter 42.30 RCW. No person other than the Secretary-Chief Examiner and legal counsel to the Commission shall be present during closed deliberation. No person shall attempt to convey any information or opinion to the Commission concerning any matter on appeal, other than in open hearing. (Commission revised on January 14, 2009; January 6, 2010)

19.14 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 or counsel of record for each party, as soon as practicable considering the complexities and ramifications to all parties involved. (Commission revised on January 14, 2009)

19.15 Remedies.

The Commission may issue such remedial orders as deemed appropriate.

19.16 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.

19.17 Waiver.

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

20. RETIREMENT AND DISABILITY

20.01 Retirement.

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

20.02 Reinstatement After Disability Retirement.

- a. **PROCEDURE.** The Secretary shall review any report from a retirement system showing that a former employee who is on disability retirement has regained his health to the extent employable. Upon being satisfied that the employee is physically and mentally competent to perform the duties of the regular class, the Secretary shall:
 - (1) Order return of the employee to former employment status as if a leave of absence had been granted; or
 - (2) Place the name on the reinstatement register for an available class and department.
- b. **EFFECT.** The name of an employee who is employable but not fully recovered shall be placed on the most advantageous reinstatement register for the same department, for an equivalent or lower class comprised of duties the employee is competent to perform, as determined by the Secretary. If such an employee's name is placed on a reinstatement register, service credit acquired previous to retirement shall be continued. The employee shall be reinstated from such register and transferred or reduced in grade according to rules. Eligibility rights shall not expire as prescribed in case of layoff. Any reinstatement in a class other than that in which last employed shall not result in a promotion.
- c. **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. (Commission revised on January 14, 2009)

21. MISCELLANEOUS

21.01 Repeals and Savings.

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

21.02 Computation of Time.

- a. 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 of Lake Stevens 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 of Lake Stevens legal holiday. When the period of time prescribed or allowed is ten (10) days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.
- b. Any period of time except for the stated period of time set forth in Rules 19.02 and 19.06 may be extended by the Secretary - Chief Examiner for no more than fourteen (14) days upon written notice to the Commission and a showing of good cause. The motion for extension of time must be filed with the Commission office prior to the end of the applicable time period.
- c. 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;
(1) as provided in these Rules;
(2) is mailed or;
(3) delivered personally to a party to a proceeding. (Commission revised on January 14, 2009)

21.03 Civil Service and Collective Bargaining.

The Public Employees' Collective Bargaining Act, Chapter 41.56 RCW ("Act") provides for collective bargaining agreements between the City and the labor organization(s) representing employees. The Act and collective bargaining agreements prevail over these rules in the event of conflict. (Commission added on May 7, 2008)