

CIVIL SERVICE RULES

Adopted 8/76, Revised 8/82, 3/83, 12/92, 8/99, 9/99, 11/00, 6/02, 5/06,06/08,12/08, 1/09, 10/10, 6/11, 4/13

RULES AND REGULATIONS OF THE CIVIL SERVICE COMMISSION OF THE CITY OF MERCER ISLAND PERTAINING TO CIVIL SERVICE IN THE POLICE AND FIRE DEPARTMENTS

In accordance with the provisions of the laws of the State of Washington pertaining to police and fire civil service in cities, the Civil Service Commission of the City of Mercer Island, hereby adopts the following rules for carrying out the purposes of said laws. These rules shall be subject to change or amendment by the Commission from time to time.

SECTION 1: DEFINITIONS

- A. **“Appointing Authority”** - means the Police Chief for appointments to positions in the Police Department and the Fire Chief for appointments to positions in the Fire Department.
- B. **“Classified Service”** - means all full time, fully compensated police officers in the Police Department and firefighters in the Fire Department of the City of Mercer Island.
- C. **“Commission”** - means the Civil Service Commission of the City of Mercer Island, created under authority of RCW 41.08 and RCW Chapter 41.12.
- D. **“Department”** - means the Police and Fire Departments of the City of Mercer Island created and established by City of Mercer Island Ordinance No. 06C-06, with functions and duties including crime prevention and suppression, traffic control, fire prevention, fire control, civil defense, emergency medical services and such other related functions and duties as may be assigned from time to time by the City Manager.
- E. **“Secretary and Chief Examiner”** - means the person appointed by the Civil Service Commission of the City of Mercer Island pursuant to state statute as well as by rules and regulations of the Commission.

SECTION 2: CLASSIFIED SERVICE

- A. Classified civil service lists for both Departments shall be kept in the office of the Secretary/Chief Examiner. The list shall contain the title of each position in the classified service and shall show for each officer and employee, the title of his/her office and the nature of his/her position, the time (s)he has been in such office or employment, the time (s)he has been in the classified service for the City of Mercer Island, and the positions in the classified service (s)he has held.

- B. The classes contained within the Police Department are as follows, listed in ascending order:
 - 1. Police Officers
 - 2. Police Corporals
 - 3. Police Sergeants
 - 4. Police Lieutenants
- C. The classes contained within the Fire Department are as follows, listed in ascending order:
 - 1. Firefighter
 - 2. Fire Lieutenant
 - 3. Fire Battalion Chief

SECTION 3: APPOINTMENTS TO CLASSIFIED SERVICE

- A. All applicants (whether for initial appointment or promotion) who pass an examination for a position in the classified service and who pass a medical and physical examination shall be eligible for appointment to a position for which the examination was taken, subject to the fulfillment of the requirements of Section 7 (F). Their names shall be entered upon an eligibility list in order of total score under such class. Whenever two (2) or more persons have equal claim to a position on a list, they shall have the same numerical rank.
- B. The promotion eligibility list shall last for two (2) years from the date the list is accepted by the Commission unless extended or terminated by the Commission.
- C. A reinstatement register shall also be kept by class, which shall contain the names of those laid off because of curtailment of expenditures, reduction in force, or for like causes. They shall be listed in the order of their seniority. The reinstatement register shall continue for a period of five (5) years unless extended or terminated by the Commission.
- D. When filling a vacancy, the appointing authority shall first appoint an available person from the reinstatement register in the order of seniority. No certification shall be made from any eligibility list until the reinstatement register for such position in such branch of service in the classified service is exhausted.
- E. An employee who resigns after permanent appointment may be reinstated to the service within one (1) year after resignation, without a new written or oral examination, and at the rank held at the time of resignation or at a lower rank, provided:

- a. That there is an opening in the classified service;
 - b. That there is no reinstatement register in existence; and
 - c. That the appointing authority recommends reinstatement to the Commission in writing.
2. All reinstatements shall be subject to the following conditions:
- a. The employee may be required to pass testing processes as designated by the appointing authority prior to appointment;
 - b. Promotion for the employee shall be by competitive examination according to Rule 8 of these rules.
 - c. An employee may apply for reinstatement only once.
 - d. Seniority rights accrued to the employee at the time of the employee's original resignation may be granted by the Commission and added on to seniority rights accruing from the date of reinstatement upon completion of one (1) year of satisfactory service after the date of reinstatement upon written recommendation to the Commission by the appointing authority.
- F. Whenever a vacancy is to be filled in the classified service other than by reinstatement the appointing authority shall make requisition upon the Secretary of the Commission for certification of a list of eligibles.
- G. Whenever a request has been made for certification of a list of eligibles the Secretary of the Commission shall, in writing, certify to the appointing authority in the case of initial appointment, the names of the five (5) highest ranking eligibles on either (lateral or entry level) or both eligibility list(s) for the position, and, in the case of promotion, the names of the three (3) highest ranking eligibles. The appointing authority may make an appointment of any one of the eligibles who are certified from either list.
- H. If deemed necessary, the Commission may authorize the appointing authority to make an appointment on a provisional or temporary basis from the list of eligibles. If there is no such list, the Commission shall authorize a provisional or temporary appointment list for such class from which provisional or temporary appointments may be made by the appointing authority. Such appointments shall not continue for more than four (4) months nor shall any person receive more than one (1) provisional or temporary appointment or serve more than four (4) months as a provisional appointee in any one twelve (12) month period.
- I. Whenever the Commission is notified by the appointing authority that unique qualifications are needed in the position to be filled, it shall certify the names of the

persons on the eligibility list who have the qualifications for the position. The appointing authority may appoint any one of the eligibles who are certified. The Commission may direct that a proficiency examination in the qualification area, if applicable, shall be given.

- J. An eligible may decline an appointment, or prior to certification may waive certification, upon giving reasons satisfactory to the Commission, without losing his/her position on the register. Unless excused by the Commission, the refusal of an appointment tendered or waiver of certification or inaction on the part of the eligible for a period of more than fifteen (15) days shall be sufficient cause for dropping the name of the eligible from the roster.
- K. No appointment to any position in the classified service shall be deemed complete until the expiration of an eighteen (18) month probationary period in the case of initial employment as police officer or firefighter, or twelve (12) months in the case of a lateral police officer or a firefighter who is certified as Firefighter I, or until after the expiration of a six (6) month probationary period for a promotional opportunity. During such times the appointing authority may terminate the employment of a person newly appointed or return a person promoted to his/her former position, if during the performance test thus afforded, upon observation and consideration of the performance of duty, (s)he finds the person unfit or unsatisfactory for service. The appointing authority shall then forthwith notify the Commission in writing of any such termination of employment or return to former position. [Revised 8/99., 1/09]

SECTION 4: LEAVES OF ABSENCE

- A. **Leaves of absence** – A leave of absence may be granted by the appointing authority to any person under civil service providing that such appointing authority shall give notice of such leave to the Civil Service Commission.
- B. **Eligibility for leave of absence** - A person under Civil Service shall become eligible for leave of absence only upon completion of the applicable probationary period except in emergency situations.
- C. **Military leave** - Military leaves of absence shall be granted by the appointing authority in accordance with the provisions of the applicable laws and chapters of the Revised Code of Washington (RCW 38.40.060).
- D. **Expiration or termination of leaves of absence** – The appointing authority may terminate any leave of absence by written notice to the employee concerned whenever the conditions require such action. The employee shall then be required to return to duty forthwith. The employee shall be returned to the same class (s)he occupied when the leave of absence was granted. An employee who fails to return to duty upon termination or expiration of leave shall be considered as absent without leave and subject to disciplinary action.

SECTION 5: APPLICATIONS

- A. Applications for appointment shall be made on forms prescribed by the Commission.
- B. Any false statement made by any person in, or in connection with his/her application for appointment, shall be cause for his/her exclusion from the register of applicants, or for removal or discharge from probation or other employment.
- C. A defective application shall be returned with notice to amend the same. The application must be in order before the examination is administered. Where it appears that the applicant is disqualified for examination (s)he must be so notified forthwith.

SECTION 6: EXAMINATIONS

- A. All examinations shall be practical and impartial, shall consist of subjects which will fairly determine the capacity of the persons examined to perform the duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill. It is the intent of the Commission that this test be closely related to the operations and duties of a police officer or firefighter. It is the intent that the written examination shall not contain questions that are biased against persons within protected classes [Revised 1/09].
- B. The relative weight of each examination shall be as ordered by the Commission.
- C. In those cases where an oral exam is given, unless otherwise ordered by the Commission, the composition of the oral board shall be as follows:

After receiving recommendations from the Police Chief or Fire Chief, the Commission shall when practical appoint a minimum of four (4) members, with one (1) being a Fire representative for Police oral board exams and one (1) being a Police representative for Fire oral board exams. [Revised 4/2002.] At no time shall there be fewer than three members of the oral board panel. [Revised 1/09]

- D. In accordance with RCW Chapter 41.04, as now existing and hereafter amended, a veterans' preference percentage will be applied to qualifying candidates. [Revised 6/2002]
- E. A preference percentage of ten percent (10%) will be applied to current noncommissioned Police Department employees who pass a written test, physical performance test, and oral examination. In order to qualify for the preference percentage, an employee's job performance must be meeting or exceeding department standards. [Revised 6/2008]
- F. In the event that a written test, physical performance test and oral examination are given, only those who attain a passing grade on the written examination shall be eligible to take the physical performance test and oral examination.

- G. Those applicants who attain a passing grade in the written examination may be required to take a physical performance test on a pass or fail basis. Applicants who fail the physical performance test will be ineligible for further consideration. The Commission shall approve the physical performance test used in the examination process.
- H. Up to the top-scoring twenty five applicants will be invited to the oral examination. If more than the designated number of applicants score the cut off grade, those applicants shall also be invited to the oral examination. In the event that an applicant declines the invitation to the oral examination, the next highest scoring applicant will be invited to the process. All the remaining applicants will be ineligible for consideration. [Revised 10/2004] [Revised 8/2005]

SECTION 7: CONTINUOUS TESTING

- A. 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 shall mean a written 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.
- C. Entry level applicants certified pursuant to a continuous testing process shall be placed on a Continuous Testing Initial Eligibility list. Certification shall be in accordance with the rules and regulations of this Commission. As each applicant is placed in accordance with his or her scores.
- D. The City shall establish a separate eligibility list for experienced and lateral applicants. Experienced and lateral applicants shall not be required to take a written or physical fitness test as part of the screening process, but shall instead submit to an oral board examination process. Each applicant is placed in accordance with his or her oral board scores. Applicants shall remain on this eligibility list for a period of twelve months. [Revised 1/09] The City may create separate lists for each, experienced applicants and lateral applicants. [Revised 6/2011]
- E. 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.
- F. 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 testing or until the

candidate has been hired by another public safety organization. Names may be removed upon written notification by the candidate, upon the written notification of another public safety employer or an entity providing subscription testing.

Secondary hiring lists, also known as 'New Hire Eligibility lists', are established following the oral board process. The secondary hiring list must be certified by the Commission. Candidates shall remain on the New Hire Eligibility List for a period of 180 days or until all candidates become ineligible for hire. The Commission may extend the expiration date of any secondary hiring list at its discretion. [Revised 1/10]

SECTION 8: QUALIFICATIONS FOR POLICE OFFICER AND FIREFIGHTER

- A. Unless otherwise ordered by the Commission, an applicant for a position in the classified service must be: a citizen of the United States of America, able to read, write, and clearly speak the English language, have a minimum of ninety (90) quarter credits from an accredited college, and possess a valid Washington driver's license; and be of good moral character. Lateral candidates are exempt from the college requirements. [Revised 9/04, 1/09].
- B. Unless otherwise ordered by the Commission, no person shall be initially appointed to the position of firefighter who is less than eighteen (18) years of age at the time of appointment, and less than twenty one (21) years of age at the time of appointment to police officer. [Revised 7/82, 1/09]
- C. Prior to appointment, each prospective appointee shall be given a medical and physical examination. Such medical and physical examination shall be taken by all new appointees before entering upon their employment and may be required for all applicants for reinstatement before they are reinstated. All such examinations shall be made at the expense of the City of Mercer Island and shall be conducted by regularly licensed physicians approved by the Commission. The examination shall include a drug test to determine whether any controlled substance, as that term is defined in Chapter 69.50 RCW and the respective Department's Collective Bargaining Agreements, has been used by the prospective appointee. A positive test result showing use of a controlled substance will terminate the hiring process for an appointee unless the appointee can demonstrate through a physician's certification that the use of the controlled substance was proper under the circumstances or that the test results were inaccurate. The inaccuracy may be established by obtaining another drug test or tests, at the expense of the prospective appointee. The results of drug tests are confidential and are available only to the Commission, its staff and the prospective appointee. [Revised 2/6/90] [Corrected 7/12/05]
- D. The burden of proof shall be upon the applicant to satisfactorily show the Commission the (s)he possesses the qualifications prescribed for eligibility to the position for which (s)he applied.

- E. No appointment shall be made until a thorough background investigation of the prospective appointee is conducted by the Department. If, from the background investigation, it is determined that the prospective appointee may be disqualified, the Police Chief or Fire Chief shall make recommendations to the Commission setting forth the reasons for disqualification in accordance with RCW 41.12.080.
- F. Prior to making an appointment, a psychological examination shall be given to the prospective appointee. Failure to satisfactorily pass the psychological examination will result in removal from the eligibility list. The psychological examination shall be paid for by the City of Mercer Island.

SECTION 9: QUALIFICATIONS FOR PROMOTION

- A. Whenever a vacancy occurs in any grade, it shall, whenever practical, be filled by a promotion from the next lower rank within the Department. Promotion shall be made upon the merit of the person promoted as shown by his previous record, as well as upon merit shown by the examination process. However, when examining for the position of Police Sergeant, both the qualifying Police Officers and all Police Corporals are eligible for admission to the Police Sergeant promotional examination. (See Sub-section C.) [Revised 6/10/2008]
- B. No firefighter shall be admitted to any examination for promotion from the grade of firefighter who has not served for at least three (3) years in grade. However, for good cause shown, a lesser period of service may be acceptable at the discretion of the Commission. All other promotions shall require service for at least two (2) years in the lower grade, unless the Commission for good cause should otherwise direct. [Revised 6/10/2008]
- C. No police officer shall be admitted to any examination for promotion from the grade of police officer who has not served for at least three (3) years in grade. However, for good cause shown, a lesser period of service may be acceptable at the discretion of the Commission. In addition, a police officer who has been determined eligible to take a promotional examination is simultaneously qualified to take the Police Corporal and/or the Police Sergeant examination. Police Corporals do not have a minimum time in grade before being allowed to take a promotional examination. All other promotions shall require service for at least two (2) years in the lower grade, unless the Commission for good cause should otherwise direct. Only a qualifying Police Sergeants will be eligible to take the Police Lieutenant examination. [Revised 6/10/2008]
- D. In accordance with RCW Chapter 41.04, as now existing and hereafter amended, a veteran's preference percentage will be added to qualifying candidates. [Revised 06/2002].

SECTION 10: DISCIPLINE

- A. Discipline is any action by the appointing authority that threatens the advancement or tenure of any member of the classified service. Examples of discipline include, but are not limited to: Removal, suspension, demotion, discharge, reduction in salary, forfeiture of accumulated time (vacation, holiday, or compensatory time), written reprimand, and transfer for the purpose of punishment.

- B. The tenure of everyone holding an office, place, position or employment under the provisions of state law and these rules shall be only during good behavior and any such person may be disciplined by the appointing authority for any of the following reasons:
 - 1. Incompetence, inefficiency, inattention to, or dereliction of duty.
 - 2. Dishonesty, 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 other willful failure on the part of the employee to properly conduct himself/herself, or any willful violation of the provisions of law, or of these rules and regulations.
 - 3. Mental or physical unfitness for the position which the employee holds.
 - 4. Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid or preparation to such an extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the functions or duties of any position under the classified service.
 - 5. Conviction of a felony, or a misdemeanor involving moral turpitude.
 - 6. Any willful or inexcusable failure to pay any just debt or obligation.
 - 7. Acceptance for personal use of a fee, gift or other valuable thing in the course of work when given in the hope or expectation of receiving a favor or better treatment than that afforded the public generally.
 - 8. Any other act or failure to act which, in the judgment of the Commission is sufficient to show the offender to be an unsuitable or unfit person to be employed in the classified service.

- C. No person in the classified service who shall have been permanently appointed or inducted into the classified service under the provisions of these rules and regulations shall be disciplined except for cause, and only upon the written accusation of the appointing authority. [Revised 3/1/83]

SECTION 11: APPEALS

- A. Any member of the classified service who is disciplined, may within ten (10) days from the time of such discipline, file with the Secretary of the Commission a written demand for an investigation whereupon the Commission shall conduct an investigation.
- B. The investigation required by Section A shall be confined to the determination of the question of whether such discipline was or was not made for political or religious reasons or was not made in good faith for cause, or was made for reasons of age, gender, marital status, race, creed, color, national origin, sexual orientation, or the presence of any sensory, mental, or physical handicap.
- C. After such investigation, the Commission may affirm the discipline. However, if it shall find that the discipline was made for political or religious reasons or was not made in good faith for cause, or was made for reasons of age, gender, marital status, race, creed, color, national origin, sexual orientation, or the presence of any sensory, mental, or physical handicap, it shall order the immediate reversal of such discipline. The Commission may provide in its discretion that the reversal be retroactive and entitle such person to compensation from the time the disciplinary action was first taken.
- D. The Commission, upon such investigation, in lieu of affirming the discipline, may modify the order of discipline. The findings of the Commission shall be certified in writing to the appointing authority and shall be forthwith enforced by the appointing authority.
- E. In accordance with RCW Chapter 42.30.140, all such investigations made by the Commission shall be by hearing after reasonable notice to the accused shall be afforded the opportunity of appearing in person, with or without legal counsel, and present his defense. If such judgment or order of the appointing authority were concurred by a majority of the Commissioners, the accused may appeal to the Superior Court of King County as provided by law. [Revised 3/83] [Revised 2/04]

SECTION 12: TRANSFERS

- A. Whenever it becomes necessary for the Department through lack of finances or for any other reason to reduce the number of personnel in the classified service, reduction shall be made in the following manner:
 - 1. In the case of reduction in the number of positions in a particular grade, reduction shall be accomplished by demotion to the next lower grade where practicable; thus persons serving in a probationary capacity will be demoted and when there is no person serving in a temporary or probationary capacity, permanent employees will be demoted in the basis of seniority in grade. The most junior employee in time of service in the grade to be reduced will be demoted first, unless otherwise ordered by the Commission.
 - 2. In the case of reduction in the number of total personnel, reduction shall be accomplished by lay-off of personnel based on seniority, with the most junior employee in time of service in the lowest grade to be laid off first.

- B. Whenever an employee is laid off under this provision, his/her name shall be placed on the reinstatement register provided for by these rules.

SECTION 13: REPORTS TO BE MADE BY APPOINTING AUTHORITY

- A. In order that the Commission may keep proper records of changes in the classified service, the appointing authority shall immediately report in writing to the Commission the following:
 - 1. Every probationary and temporary appointment made by him/her.
 - 2. Every refusal or neglect to accept any appointment by a person who has been duly certified.
 - 3. Every separation from service, and whether the separation was caused by death, dismissal, resignation or retirement. All resignations shall be in writing and filed with the Commission.
 - 4. Every position created or abolished in the classified service.
- B. The appointing authority shall prepare a monthly report to be filed with the Commission listing those persons currently in the classified service.

SECTION 14: MEETINGS

- A. The regular meeting of the Commission shall be held at least monthly provided there is business to conduct. It shall hold such additional meetings as may be required for the proper discharge of its duties.
- B. Special meetings of the Commission may be called at any time upon twenty-four (24) hours notice by the Chairman of the Commission or by any two (2) members thereof.
- C. All meetings of the Commission shall be held in the City Hall, or at such other quarters as may be furnished for said purpose by the City.

SECTION 15: SECRETARY/CHIEF EXAMINER

- A. The Secretary/Chief Examiner shall be appointed by the Commission.
- B. The Secretary/Chief Examiner shall keep the records of the proceedings of the Commission and have charge of, and be responsible for the safekeeping of the books, records, papers and other property of the Commission; and shall make such certifications as the Commission may direct of those eligible for appointment or employment and shall generally conduct the correspondence of the Commission and perform such other appropriate duties as the Commission may assign.

- C. Such Secretary/Chief Examiner shall, under the direction of the Commission, research, review, and recommend validated examination questions and tests, and shall supervise the examination in a fair and impartial manner, and the Secretary/Chief Examiner or designee shall be personally present at all examinations.
- D. No person shall act as a Secretary/Chief Examiner in any examination when he/she is an applicant for a position for which the examination is being taken or where there is a relationship by blood or marriage, or domestic partnership with the applicant or the spouse of any applicant.

SECTION 16: PROMOTIONAL EXAMINATION PROCEDURES

- A. Promotional examinations shall consist of written questions, oral questions, or physical performance tests or in such other categories as the Commission may determine. Examinations may be given on oral questions only or written questions or a combination of both written and oral questions, and other categories as applicable. In addition a physical performance test may be required.
- B. The Commission shall approve recommendations from the Secretary/Chief Examiner of the procedures for the conduct of each promotional examination.
- C. In case any applicant is dissatisfied with the grade (s)he receives on any promotional examination, (s)he may, within ten (10) days after receiving notice of his/her grade, appeal the matter to the Commission by submitting a written notice to the Commission stating that (s)he is dissatisfied with such grade and that (s)he desires the same to be reviewed; whereupon the Secretary/Chief Examiner, in conjunction with two members of the Commission appointed by the Chairman of the Commission, shall re-examine the grade and either approve or change the grade as may appear just and proper, and the grade so established through this proceeding shall be conclusive except as otherwise provided by law.
- D. After the promotional examination results are tabulated, each person shall be notified of his/her standing as ascertained from the entire examination process. Written examination papers and grading sheets utilized by the oral board examiners are privileged records of the Commission and are not available for public inspection. They shall remain in the files of the Commission, and shall not be placed in the Department personnel files. Examination papers and grading sheets may be inspected by the person examined with prior approval of the Commission. Such approval shall be granted only upon written request and shall not be unreasonably withheld.
- E. Each applicant taking the promotional examination, whether (s)he failed or passes shall be forthwith notified of his/her grade in the examination.