

CITY OF MILL CREEK

CIVIL SERVICE COMMISSION Rules and Regulations

Revised November 2013

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The Civil Service Commission, appointed by the City Manager of the City of Mill Creek, in accordance with the terms of Chapter 4.06 of the Mill Creek Municipal Code, such chapter enacted pursuant to Chapter 41.12 RCW, adopts the following rules and regulations for carrying out the purpose of said law.

RULE 1 - DEFINITION OF TERMS

As used in these rules, terms have the meanings set forth in Chapter 4.06 of the Mill Creek Municipal Code. In addition, the following terms have the meaning set forth below:

- a. **Applicant:** Anyone who has filed an application to take a civil service examination.
- b. **Candidate:** Any applicant who has completed, or is in the process of completing, a civil service examination.
- c. **Class:** A group of positions sufficiently similar with respect to duties and responsibilities so that the same title may be used reasonably for each, the same qualifications may be required, and the same salary range may be applied with equity, as established by the City Council.
- d. **Classified Service:** The positions in the Mill Creek Police Department which are covered by Civil Service under Chapter 4.06 of the Mill Creek Municipal Code.
- e. **Day:** Means calendar day unless otherwise stated.
- f. **Demotion:** A reduction in employment status to a position or class of positions having a lower rank or scale of pay.
- g. **Discharge or removal:** The separation of a regular employee from the classified service for cause.
- h. **Eligibility List or Employment List or Promotion List:** A list of eligible persons arranged in order of qualifications for appointment or promotion to a position in the classified service.
- i. **Eligible:** Anyone qualified for a given class through examination and placed on the proper eligibility list.
- j. **Employee:** A person who is legally employed in the classified service of the City or who is on authorized leave of absence and whose position is held for him/her upon return.
- k. **Examination:** The process of testing the fitness and qualifications of applicants for positions in a specific class.
- l. **Layoff:** The termination of employment because of lack of funds or work, a reduction in force, or because of a material change in the classified service organization.

- m. **Regular Employee:** An employee who has successfully completed his/her probationary period and who has obtained regular civil service rank.
- n. **Temporary Employee:** An employee appointed to a position on a temporary basis not to exceed one year.
- o. **Probation:** The period of trial service which an employee works prior to obtaining regular appointment to a classified position, and during which the employee may be removed, suspended, demoted, discharged or deprived of vacation or other special privileges without the right to hearing before the Commission.
- p. **Promotion:** A change in employment status in accordance with these rules from a lower to a higher rank or class in the classified service.
- q. **Suspension:** Temporary separation of an employee from the classified service, without pay, for disciplinary purposes.
- r. **Veteran's Scoring Criteria:** Scoring criteria based on military service, as provided and defined by these Rules and applicable laws.

RULE 2 - CIVIL SERVICE COMMISSION

Section 1. Organization of Commission

Annually, or when reorganization of the Commission becomes necessary, the Civil Service Commission shall elect a Chairperson. The Chairperson shall preside at all meetings at the Commission, sign all necessary papers as Chairperson and carry out all customary and usual duties of such office. In the temporary absence of the Chairperson, one of the members of the Commission may be selected to serve as temporary Chairperson. Two members of the Commission shall constitute a quorum thereof, and two affirmative votes shall be required for the transaction of any official business of the Commission. Minutes of the meetings of the Commissioners shall be recorded by the Secretary, and presented for approval at the next regular meeting. Upon approval, the minutes of meetings shall be signed by the Chairperson and countersigned by the Secretary, and Robert's Rules of Order shall control on questions of procedure except as otherwise provided by these Rules or by vote of the Commission.

Section 2. Date, Time and Place for Regular Meetings

Regular meetings of the Commission shall be held on the second Wednesday of each calendar month at 3:00 p.m. at Mill Creek City Hall. Special meetings may be held upon call of the Chairperson or any two members.

Section 3. Powers and Duties

The Mill Creek Civil Service Commission shall:

- a. Make suitable rules and regulations that shall provide in detail the manner in which examinations may be held and appointments, promotions, transfers, reinstatements, demotions, suspensions, and discharges shall be made.
- b. Approve minutes of its own meetings and records of its procedures.
- c. Provide for, formulate and hold competitive tests under the supervision of the Chief Examiner in order to determine the relative qualifications of persons for employment in the classified service, and prepare a list of eligible candidates for vacancies and certify same.
- d. Conduct all civil suits necessary for the proper enforcement of the Civil Service Ordinances of the City and these regulations. The Commission shall be represented in such suits by the City Attorney, unless it becomes necessary to appoint special counsel because the City is a party to the action.
- e. Hear and determine appeals arising from the administration of the Civil Service Ordinances and these rules.
- f. Hear and report on all matters touching the enforcement and effect of the Civil Service Ordinances and these rules.
- g. Have such additional powers and duties as are provided by the Civil Service Ordinances of the City.
- h. Amend these rules at any regular Civil Service Commission meeting or any special meeting where public notice has been given upon the affirmative vote of two members of the Commission, effective upon passage.

Section 4. Challenge to Commissioners

Any challenge to a Commissioner sitting at a hearing shall be made by an interested party prior to the commencement of a hearing. The challenged Commissioner shall review and rule on the challenge prior to proceeding with the hearing. Upon a Commissioner's finding of cause for disqualification, the Commissioner shall not participate in 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.

RULE 3 - SECRETARY AND CHIEF EXAMINER

Section 1. Selection

The City Manager shall appoint a person to hold the position of Secretary and the position of Chief Examiner. The positions may be held by separate individuals or by the same person, as decided by the City Manager. Those holding these positions need not be residents of the City.

Section 2. Compensation

The City Manager shall provide for the compensation of such persons in an amount commensurate with the time and responsibilities involved.

Section 3. Duties of the Secretary

The Secretary shall be the official custodian of all records and files of the Commission; receive and preserve all reports made to it; keep the minutes of the meetings, hearings and other activities of the Commission; prepare the correspondence of the Commission; and perform such other duties as the Commission and Chairperson may require.

Section 4. Duties of the Chief Examiner

The Chief Examiner shall conduct and keep a record of all examinations held under the direction of the Commission; establish and maintain eligibility lists; maintain a record of all regular and temporary positions in the classified service; make investigations and reports to the Commission as required; and perform such other duties as the Commission and Chairperson may require.

Section 5. Review of and Appeal From Actions or Decisions of the Secretary or Chief Examiner

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

RULE 4 - APPLICATIONS

Section 1. Announcement of Vacancy

Whenever there is a need for a current list of qualified candidates for appointment or promotion to a position in the classified Civil Service, the Chief Examiner shall give

public notice of the examination inviting qualified persons to apply for admission to the examination for employment or promotion. Public notice shall specify the title and salary range of the position, a brief description of the duties, the minimum qualifications required, and the final date upon which applications will be received. Notice of the examination shall be given by publishing a notice in the official newspaper of the City, and in any other manner which the Secretary and Chief Examiner deem appropriate to ensure a wide circulation of the notice and a competitive examination.

Section 2. Form of Application

Persons desiring to apply for positions for which the examination will be held shall file applications with the Chief Examiner on forms supplied by the Civil Service Commission. The application forms will be designed for the applicant to fill out to show that the applicant possesses the minimum qualifications for the position.

Section 3. Filing Time for Application

- a. No application will be accepted for an examination until an examination for the class has been announced. All applications for examination shall be filed with the Chief Examiner within the time limit fixed in the official announcement of examination; provided that upon written evidence of extenuating circumstances acceptable to the Chief Examiner, late applications may be accepted. Applications received by mail in the office of the Commission must be postmarked on or before the closing date.
- b. Applications may be amended not later than the day of the examination and prior to the applicant beginning the examination.
- c. The Chief Examiner or his/her designee, shall stamp each application with the date and time of filing, and this time and date shall control in any dispute as to whether an application has been timely filed.
- d. The time for filing applications may be extended or reopened by the Commission in the event that the Commission determines that insufficient applications have been received to ensure a competitive test, provided that the examination shall then be re-advertised in the official newspaper of the City.

Section 4. Rejection of Application

- a. The Chief Examiner may refuse to accept an application or admit any applicant to the examination, where such applicant:
 - (1) Does not meet the requirements for the position set forth in the position description adopted by the City or in the bulletin announcing the examination;

- (2) Has made any material false statement or has attempted any deception or fraud in connection with the application, the examination or any previous Civil Service examination;
 - (3) Refuses to execute any oath as prescribed by law;
 - (4) Refuses to furnish all information required to complete the application;
 - (5) Has assisted in preparing, conducting or scoring the examination for which he/she applies, or who has in any other manner secured confidential information concerning such examination which might give him/her an unfair advantage over other applicants; or
 - (6) Has failed to timely file his/her application.
- b. In the event that the Chief Examiner refuses to accept any application, the person whose application is not accepted shall be notified promptly of the reasons therefore. Oral notice at the time of filing the application or by telephone after the application is filed shall be sufficient. If the Chief Examiner is unable to notify the applicant orally, a written notice shall be mailed to the address shown on the application.
- c. Any person whose application is rejected or not accepted by the Chief Examiner may request that the Commission review the Chief Examiner's ruling by filing a written request for such review with the Commission within five (5) days after notice of the Chief Examiner's ruling is given to the applicant. For purposes of this section, notice of the Chief Examiner's ruling shall be deemed to be given as of the time it is done orally, or in the event that written notice is mailed, three days after the date of mailing. In the event that the Commission is unable to review the Chief Examiner's ruling prior to the date set for the examination, the Chief Examiner may, in his/her discretion, admit to the examination any person whose application was not accepted, pending final review by the Commission. Such admission shall be without prejudice to the right of the Commission to reject the application after completing review of the Chief Examiner's ruling.

Section 5. Withdrawal of Application

Any applicant may withdraw his/her application at any time without prejudice against re-application, provided that such withdrawal is made prior to any qualifying examination being administered to or participated in by the applicant. Failure of the applicant to confirm or participate in qualifying examinations at the times the same are scheduled shall be deemed to constitute withdrawal of the application unless excused by the Chief Examiner.

Section 6. Lateral Entry

- a. The term "lateral entry" means an applicant who:
 - (i) Has worked for at least 12 months as a full-time, general authority Washington peace officer, as defined by Washington state law, within the last 24 months and is currently certified by the Washington State Criminal Justice Training Commission as a fully commissioned Peace Officer; or
 - (ii) Has worked for at least 12 months as a full-time, fully commissioned police officer within the last 24 months for a city, county, or state law enforcement agency outside of the State of Washington; or
 - (iii) Has worked for at least 12 months as a full-time, commissioned tribal law enforcement officer within the last 24 months for a tribal law enforcement department in Washington State and is currently certified by the Washington State Criminal Justice Training Commission as a Tribal Law Enforcement Officer; or
 - (iv) Is currently employed with the City of Mill Creek as a Police Support Officer ("PSO"), has been in that position for the last 24 continuous months, and meets the requirements of state and local law for the position of police officer.
- b. Minimum qualification standards consist of that referenced in (a) above, plus any other standards deemed appropriate for the position by the appointing authority.
- c. The Chief Examiner shall review applications to ensure compliance with the definition of a "lateral entry" and any minimum qualifications. Applications that are accepted are considered until scheduled for an oral board interview or for one year, whichever comes first.
- d. Accepted lateral entry applicants have priority over entry level applicants for oral board interviews.
- e. If there are more lateral entry applicants than available oral board interviews, priority is given based on (i) the date the application was received; and (ii) within the same date based on alphabetical order.
- f. Lateral applicants receiving a passing score on an oral board interview are placed on an eligibility list separate from the list for entry level candidates. Placement on the eligibility list is in accordance with the rules set forth herein.

RULE 5 – EXAMINATIONS

Section 1. Conduct of the Examination

The Chief Examiner shall arrange for the use of public facilities and shall oversee the examinations.

Section 2. Scope of Examinations

All examinations shall be practical and 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. Such examinations may include one or more of the following methods:

- a. Written examination;
- b. Tests of physical fitness;
- c. Test of manual skills, dexterity and other job related capabilities;
- d. Interviews covering general qualifications, education, training and/or experience;
- e. Complete background investigation, including criminal record checks, character references and financial references;
- f. Polygraph examination;
- g. Psychological evaluation;
- h. Medical examination.

Section 3. Qualifying Grade

- a. Each examination may contain several elements, some of which may be scored numerically, and others of which may be scored on a pass/fail basis. For all numerically scored elements, the minimum passing score shall be 70% of the total points possible for that element.
- b. Candidates must score at least 70% on each numerically scored element and score a "pass" on each non-numerically scored element to have passed the examination and be considered for placement on the eligibility list.
- c. Percentage weights shall be assigned to each element of the examination, which weights shall total 100%.
- d. A percentage weight shall be determined by multiplying the weight assigned to one or more elements of an examination and the sum of the resulting products, to be called the "weighted average." This weighted average shall represent the candidate's final score for purposes of ranking on an eligibility list.

Section 4. Identity of Examinees

So far as practicable, written examinations shall be conducted so that the identity of applicants will not be known to the examiners or other persons scoring the answers. So

far as practicable, different parts of an examination shall be scored separately without the examiners or other persons scoring a part of the examination knowing the applicants' scores in the other parts of the examination.

Section 5. Rating and Preparation of Eligible List

The names of applicants who pass an examination shall be entered upon an eligible list for the position or class for which the examination was held in order of their final score on the examination. Except that a preference status shall be given to all candidates who have veteran's credit as provided in Rule 5, Section 6.

Section 6. Veterans' Scoring Criteria Status

In all competitive examinations to determine the qualifications of applicants for the classified service, the City shall give a scoring criteria status to all veterans as defined in RCW 41.04.007, by adding the scoring criteria status to the passing mark, grade or rating only, based upon a maximum possible rating of one hundred percentage points. The scoring criteria status shall be a percentage determined in accordance with the following:

- a. Ten percent to a veteran who served during a period of war or armed conflict as defined in RCW 41.04.005 and who does not receive military retirement. The percentage shall be added to the passing mark, grade, or rating for competitive examinations only until the veteran's first appointment. This percentage shall not be utilized in promotional examinations.
- b. Five percent to a veteran who did not serve during a period of war or armed conflict as defined in RCW 41.04.005 or who is receiving military retirement. The percentage shall be added to the passing mark, grade, or rating for competitive examinations only until the veteran's first appointment. This percentage shall not be utilized in promotional examinations.
- c. Five percent to a veteran who is called from employment with the City to active military service. The percentage shall be added to the passing mark, grade or rating in promotional examinations until the first promotion only.
- d. All veterans' scoring criteria status specified in subsections a, b, and c of this Section 6 may be claimed upon release of the veteran from active military service.

Section 7. Promotional Examinations

Promotional examinations may be conducted as needed and may consist of evaluations of prior service, accomplishments in special training courses, or other pertinent tests. All candidates must possess the minimum qualifications of the class to which promotion is sought. Candidates who are not regular employees in the classified service of the City must also possess the minimum lateral entry requirements and a current certification as a general authority Washington peace officer, as defined by Washington state law.

External candidates may be subject to pre-screening exercises in order to have an opportunity to participate in the promotional examination. Whether an external candidate progresses to the promotional examination will depend, in part, on the number of testing positions available after all eligible internal candidates have applied.

Section 8. Notification of Results

The Chief Examiner shall mail notification of his/her test results to each candidate promptly after completion of all scoring. Candidates shall be allowed a period of ten (10) days following the mailing date of the notification during which each may inspect his/her scored answer sheets and any ratings standards and scoring keys by which he/she has been rated during any part of the examination. The notification of examination results sent out by the Secretary and Chief Examiner shall advise the applicant of his/her right to inspect the results and the time period for doing so.

Section 9. Protests

If a candidate believes an error has been made in the application of the written test scoring key or in the rating given him/her on any part of the examination, or that any other error has been made, he/she may, during the ten-day inspection period, file a written protest with the Chief Examiner stating specifically where he/she believes an error has been made and giving specific facts and reasons to support the protest.

Candidates shall not be allowed to remove copies of any of the test questions or answers from the inspection room during the inspection period. No protests may be made after the ten-day inspection period. Upon receipt of a written protest or request for re-scoring or re-rating, a review of the protest shall be made by the Chief Examiner in accordance with Section 10 below.

Section 10. Report of Examination

After the expiration of the ten-day period provided for inspection and protest, the Chief Examiner has 30 days to submit a complete report on each examination to the Commission by telephone or at the next regularly scheduled meeting. Such report should include a determination regarding any protest, including, but not limited to, making any necessary corrections in grades and rates. The Chief Examiner will also deliver, via regular United States mail, a copy of the determination regarding any protest to the protestor.

Section 11. Appeal to Commission

Any person whose protest of any examination is disallowed by the Chief Examiner may, within ten (10) days after the Chief Examiner's ruling, appeal the ruling to the Commission. The Commission's determination as to the ruling will be final.

Section 12. Joint Examinations

Notwithstanding any other provision of these Rules, whenever the Commission determines that the best interests of the City will be served thereby and that all qualifications for a particular position will be adequately tested, the Commission may determine to hold a joint examination with any other appropriate agency.

RULE 6 - ELIGIBILITY LISTS

Section 1. Order of Names

- a. Names on eligibility lists for a position or a class shall be entered in order of final rating earned in the examination for the position or class, including veteran's preference points where applicable, except that employees laid off from a position in that class shall be given preference over other applicants.
- b. Whenever two or more candidates have the same final rating, priority of position on the eligibility list shall be determined as follows in the order stated.
 - (1) The highest grade on the most heavily weighted element of the examination and so on for as many parts as the examination contains;
 - (2) The highest grade on the written element if all elements are weighted equally;
 - (3) Alphabetical order by last name.

Section 2. Effective Life of Eligibility Lists

Eligibility lists shall become effective when the Chief Examiner signs a statement certifying that the list was legally prepared and represents the relative ranking of the names on it. An eligible list shall remain in effect for not more than one (1) year from the day it was created unless otherwise ordered by the Commission. Names of employees laid off shall be carried on the eligibility list for one (1) year.

Section 3. Removal of Names From List

- a. The name of any person appearing on the eligibility list may be removed by the Commission for any of the following:
- (1) Appointment of the person to a position within the classified service; or
 - (2) Upon determination by the Secretary that the person is not eligible for appointment because of any of the reasons set forth in Rule IV, Section 4; or
 - (3) Where the candidate refuses appointment to a position within the classified service; or
 - (4) Where the candidate fails to keep a current address on file with the Commission; or
 - (5) Upon a determination by the Secretary that the candidate has made any material false statement or has attempted or committed any deception or fraud in connection with his/her application, examination or any other investigation or inquiry regarding his/her fitness for the position; or
 - (6) Upon determination by the appointing authority that the person should be removed from the eligible list because of the results of a background or other investigation; or
 - (7) Upon a determination by the appointing authority that an eligible candidate does not satisfy the qualifications for employment to the classified service; or
 - (8) Upon a determination that the candidate has been dismissed or has resigned in lieu of discharge from any position for any cause which would be a cause for dismissal from City service; or has an unsatisfactory record of job performance in employment with any agency or firm; or
 - (9) Upon a determination that the candidate has been dishonorably discharged from the Armed Forces; or
 - (10) Upon a determination that the candidate has, in adult status, been convicted of a felony offense or a gross misdemeanor or misdemeanor involving moral turpitude; or
 - (11) Where the candidate consents to or requests that his/her name be removed from the list.

- b. Any candidate refusing appointment to a position within the classified service may request that his or her name be returned to the eligibility list at the position warranted by his or her examination results for the purpose of consideration for subsequent offers of appointment. The decision to return a candidate to the eligibility list shall be solely at the discretion of the appointing authority.
- c. Whenever a candidate's name is removed from the eligibility list, except as provided in Rule 6, Section 3(b), the Secretary shall mail notice of such removal to the candidate and the Commission. Any candidate who desires to appeal such removal may, within ten (10) days after the mailing of the notice of removal, appeal the removal to the Civil Service Commission. Such appeals shall not affect the validity of an eligibility list or an appointment made from a certification made during the pendency of the appeal. When the appeal has been decided by the Commission, the Secretary shall add the name of the appellant to the eligibility list at the appropriate place if it has been determined that he or she is entitled to be on the eligibility list.

Section 4. Revocation of List

An employment or promotional list may be revoked and another examination ordered when, upon recommendation of the Secretary and approval of the Commission, such action is deemed advisable on account of fraud, errors, or of inappropriate standards described in connection with the examination, and where the Commission determines that results obtained were inadequate. No lists shall be altered or revoked except upon written notice to all persons whose standing may be affected.

RULE 7 - APPOINTMENTS

Section 1. Procedure

Whenever a vacancy in the classified service exists, one of the five top ranked applicants on either lateral or entry level or both eligibility list(s) for the position will be selected for appointment from the applicable certified eligibility list. If any of the original five are unwilling to accept the appointment or are disqualified, the Commission may add names to the list to maintain a list of five. If for any reason there is no available list for the class (i.e. less than one person), the Commission shall authorize a provisional appointment for such class. In the event such person is a provisional appointee, he/she shall be replaced by selecting one from the five highest ranking applicants certified by the Commission following the examination given pursuant to Rule 7, Section 4.

Section 2. Failure to Respond

If a candidate whose name has been certified for appointment fails to respond to a notice of certification within ten (10) days after the notice is mailed or fails to accept a written offer of appointment with the same period, the candidate may be deemed to have

declined appointment. If the candidate accepts appointment and then fails to report for duty on the date specified, he/she may be deemed to have declined appointment.

Section 3. Emergency Appointment

To meet the immediate requirements of an emergency condition which threatens the public safety, the appointing authority may employ any person whom they may be legally empowered to appoint without restriction. Such appointment shall be limited to the duration of the emergency period.

Section 4. Provisional Appointment

As soon as possible following a provisional appointment, the Chief Examiner shall announce and oversee the examination and the Commission shall certify five (5) names for regular appointment.

Section 5. Temporary Appointment

For a temporary appointment, the appointing authority may employ any qualified person and shall not need to request a certification in the manner provided for a regular appointment. The appointing authority shall indicate the approximate date on which the temporary appointment is expected to terminate.

Section 6. Length of Temporary or Provisional Appointment

- a. No temporary or provisional appointment shall be continued and no person shall be employed in a position on a temporary or provisional basis for more than 12 months. Provided, however, that a temporary or provisional appointment may be extended for an additional six months subject to Civil Service Commission approval. Thereafter, it may be extended for a reasonable time frame for good cause subject to Civil Service Commission approval.
- b. The period during which any person serves in a position covered by these Rules as a provisional or temporary appointee shall not be credited against any probationary period for a regular appointment and shall not be used in computing time in grade or time of service for purposes of promotion.

Section 7. Reappointment After Resignation

Notwithstanding the procedure set forth in Rule 7, Section 1, the appointing authority shall have the right to reappoint a former employee who has resigned to a vacant position to which he/she is still qualified, but not to a level higher than the previous position and so long as such employee had been employed by the City within two (2) years of such reappointment.

Section 8. Probation

- a. To enable the appointing authority to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of one year of probationary service, during which the appointing authority may terminate the employment of the person appointed by him/her, if upon observation or consideration of the performance of duty the appointing authority deems such person unfit or unsatisfactory for service in the department. Upon such termination of employment, the appointing authority shall request the Commission to certify the next five persons highest on any eligibility list for the position and the appointing authority shall appoint one person so certified to the vacant position, provided that the appointing authority finds such person to in fact be qualified for the position. Upon such appointment, the person appointed shall likewise enter upon the duties of the position for a period of one year's probationary service in the same manner as the original appointment. This process shall be repeated until some person is found who is deemed fit for appointment, employment, or promotion, for the duration of the probationary period, whereupon the appointment, employment or promotion shall be deemed to be complete.
- b. The appointing authority may, in his/her discretion, extend probation for any appointee for up to an additional six months after expiration of the original one-year probationary period.
- c. Police officers who attend the Washington State Criminal Justice Training Commission Basic Law Enforcement Academy shall be subject to a probationary period whose provisions are identical to the probationary period applicable to other civil service employees except that the probationary period shall remain in effect for eighteen (18) months.
- d. For purposes of this section, both the first and last days an appointee works shall be included in computing the probationary period. Fractional portions of a day count as a whole day.

RULE 8 - LAYOFFS

Section 1. Order of Layoffs

In a given class in a department, the following shall be the order of layoff:

- a. Provisional appointees;
- b. Temporary or intermittent employees not earning service credit;
- c. Probational appointees;
- d. Regular employees in the order of their length of service, the one with the least service being laid off first.

Section 2. 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 in the interest of efficient operation of the department, after giving any employee or employees affected an opportunity to be heard.

Section 3. Placement of Laid-off Employees on Eligibility List

Whenever any regular employee is laid-off by the city because of a curtailment of expenditures, reduction in force, reorganization of the department, or any like cause other than for disciplinary reasons, the name of the laid-off employee shall be placed at the head of any existing eligibility list for the position or class from which the employee was laid-off, or any eligibility list thereafter established for the position or class, to the end that the laid off employee shall be the first to be re-employed. If there is more than one regular employee who has been laid-off from the same position or class, the laid-off employees shall be placed on the eligibility list in the order of their seniority at the time of layoff.

RULE 9 - DISCIPLINE AND DISCHARGE

Section 1. Grounds for Discharge, Reduction, or Suspension, or Deprivation of Privileges

The continued tenure of everyone holding an office, place, position, or employment under the provisions of these rules and regulations shall be only during good behavior, and any such person may be removed, discharged, suspended without pay, demoted or reduced in rank, or deprived of vacation privileges, or other special privileges for just cause. Just cause is defined to include, without limitation, the following:

- a. Incompetency, inefficiency, inattention to, or dereliction of duty;
- b. Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or 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 him/herself; or any other willful violation of the provisions of these rules and regulations as now enacted or as subsequently amended, or the Civil Service ordinance of the City;
- c. Mental or physical unfitness, as determined by competent authority, for the position which the employee holds;
- d. Dishonest, disgraceful, immoral or prejudicial conduct;
- e. Drunkenness or use of intoxicating liquors, narcotics, or other non-prescription habit forming drug, liquid or preparation to such 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 function and duties of their classification;
- f. Conviction of a felony, or a misdemeanor, involving moral turpitude or illegal drug use, sale or possession;
- g. Promotion of dissatisfaction among members of the department;
- h. Manhandling, mishandling or inhumane treatment of a civilian, or person under arrest or in custody;
- i. Failure to pay just debts promptly;
- j. Acceptance for personal use of a fee, gift or other valuable thing in the course of duty, or receiving a favor or better treatment than that accorded to general public;
- k. Failure to promptly report upon expiration of a leave of absence.

- l. Any other act or failure to act taken by the appointing authority which in the judgment of the Civil Service Commission is sufficient to show the offender to be an unsuitable and/or unfit person to be employed in the public service; or
- m. Such other and further justifiable basis.

Section 2. Pre-Disciplinary Meeting

- a. No person in the classified Civil Service who shall have been regularly appointed or inducted into Civil Service under provisions of the Civil Service ordinances of the City shall be removed, suspended, demoted or discharged except for just cause as provided in these rules and regulations or as provided in any collective bargaining agreement by which the City and such person are bound. For the purpose of this section, a resignation or voluntary separation from employment shall not be considered a removal, suspension, demotion or discharge.
- b. Whenever the appointing authority has determined that just cause for removal, suspension, demotion, or discharge exists, and prior to any disciplinary action, the appointing authority shall offer the employee the opportunity for a pre-disciplinary meeting. Oral or written notice of the proposed action shall be being given to the employee at least ten (10) days before the pre-disciplinary meeting. The meeting may be scheduled at any time convenient for the employee and the appointing authority, but not more than sixty (60) days following receipt of the notice. The meeting shall be between the employee with his/her representative, if requested by the employee, and the appointing authority with his representative if desired. The appointing authority shall present the factual basis of the proposed action, and the employee shall be given an opportunity to tell his/her side of the story.
- c. If, upon completion of the pre-disciplinary meeting, the appointing authority determines that there is sufficient evidence to warrant removal, suspension, demotion, or discharge of that employee, the appointing authority shall give the employee, within ten (10) days, a written statement which contains, in general terms, the charges and evidence against the employee, and a statement of the disciplinary action to be taken. A duplicate of the statement required by this subsection shall be filed with the Commission.
- d. Any regular Civil Service employee aggrieved by a disciplinary action of the appointing authority, pursuant to this section may, within ten (10) days from the date of the action, file with the Commission at City Hall a written demand for written investigation and/or hearing; provided however, that any collective bargaining agreement by which the City and an aggrieved civil service employee are bound may provide for an exclusive alternative appeal process at the aggrieved employee's election.

RULE 10 - HEARING OF APPEALS

Section 1. Right to a Hearing

- a. Whenever the Commission shall receive a timely, written demand for investigation from an employee aggrieved by a removal, suspension, demotion or discharge, or whenever the Commission shall receive a petition from a citizen alleging irregularities or abuses in the administration or enforcement of the Civil Service ordinances or rules of the City, the Commission shall schedule a hearing within not less than twenty (20) nor more than sixty (60) days of the date of the demand in order to conduct an investigation into such removal, suspension, demotion or discharge or such alleged irregularities or abuses.
- b. If a collective bargaining agreement by which the City and an aggrieved employee are bound provides for an exclusive alternative appeal process, and if the aggrieved employee elects such alternative appeal process pursuant to the terms of the collective bargaining agreement, then (i) the appeals procedure described in the agreement shall apply to the aggrieved employee's appeal, (ii) the aggrieved employee shall have no right to and shall be deemed to have waived an appeal to the Commission pursuant to these rules, and (iii) the Commission shall have no jurisdiction to hear the aggrieved employee's appeal or any appeal of the final decision made pursuant to the appeals process set forth in the collective bargaining agreement.

Section 2. Notice of Hearing

Written notice of the scheduled hearing shall be mailed by certified mail, return receipt requested, not less than ten (10) days prior to the date selected for the hearing to all petitioning parties and/or their representatives and the appointing authority. The notice shall identify the appeal to be heard, and shall specify the time and place of the hearing.

Section 3. Legal Counsel

Both the appointing authority and the petitioning party shall have the right to be represented at all stages of the Commission's investigation and hearing at their own expense. In addition, the Commission may, in its discretion, retain independent counsel at City expense to assist the Commission in the conduct of its investigations and hearing process.

Section 4. Conduct of Hearing

- a. Investigations and hearings shall be conducted by the Commission, or their designee.
- b. Hearings upon demand, appeal or review of disciplinary actions taken by the appointing authority shall be quasi-judicial in nature. The inquiry of the Commission shall be limited in such matters to the determination of the question of whether the removal, suspension, demotion, or discharge was or was not made for political or religious reasons, and was or was not made in good faith for just cause. In the event of an alleged violation of a rule or regulation, the Commission shall determine whether such violation did occur.
- c. The Chairperson or Acting Chairperson of the Commission shall conduct the hearing in an orderly manner, and shall rule on all procedural matters, objections, motions made by any party, administer oaths, examine witnesses, and receive evidence. The Commission may issue subpoenas as provided by law,
- d. The testimony of all witnesses shall be under oath. All documents which the participating parties have the Commission review as part of the evidence shall be introduced as exhibits. A verbatim record of the proceedings shall be kept by the Commission.
- e. All portions of the hearings shall be open to the public, with the following exceptions:
 - (1) Where all parties agree to a closed hearing; or
 - (2) Where the Chairperson determines that because of the sensitive nature of a witnesses' testimony, the hearing should be closed during that testimony in order to prevent unnecessary embarrassment to the witness or parties; or
 - (3) Where the Commission determines to exclude witnesses who have not yet testified, or who may be recalled to testify, following the testimony of other witnesses; or
 - (4) During the deliberations of the Commission; or
 - (5) As otherwise allowed by law.
- f. The Chairperson shall determine the proper order and format of the hearing. As a general rule, the hearing may proceed as follows:
 - (1) The appointing authority and the petitioner shall each be offered the opportunity to make an oral opening statement setting out briefly a

statement of the issue, facts and dispute in the case. Either party may reserve or waive an opening statement.

- (2) The appointing authority shall introduce all evidence and witnesses in its case.
 - (3) The appellant or petitioning party shall introduce all evidence and witnesses in their case.
 - (4) Rebuttal evidence from the appointing authority shall be allowed.
 - (5) Upon completion of rebuttal testimony and evidence, each party shall be given an opportunity to make a closing statement to the Commission setting forth that party's view of the evidence and its relation to the issue(s) before the Commission.
 - (6) Written post hearing statements may be permitted by approval of the Commission Chairperson. Such written statement must be received by the Commission no later than ten (10) days following the close of the hearing.
 - (7) After completion of closing statements, or the receipt by the Commission of post hearing statements or briefs, if permitted, the Commission shall deliberate and render a decision.
- g. The appointing authority bears the burden of sustaining a removal, suspension, demotion, or discharge. Any citizen petitioning the Commission to investigate irregularities or abuses bears the burden of showing that such irregularities or abuses occurred. All matters to be proven by any party shall be proven by a preponderance of the evidence.
- h. In conducting the hearing, the Commission shall not be bound by the technical rules of evidence. The Commission may receive and examine any and all evidence which it determines to be relevant to the issue(s) before the Commission.
- i. During the presentation of its testimony, each party shall be allowed direct examination if the witness is called by the party in his/her case, or rebuttal, or cross-examination, if the witness is called by an adverse party in such party's case. In addition, each Commissioner and the Commission's legal counsel, if any, may question any witness.

Section 5. Decisions of Commission - Findings and Conclusions

- a. After the hearing has been completed, the Commission shall deliberate and reach a decision concerning the case.
- b. If the hearing relates to the removal, suspension, demotion or discharge of a regular employee and the Commission finds that the removal, suspension, demotion or discharge was made for political or religious reason, and was not made in good faith for cause the Commission shall order the immediate reinstatement, or re-employment of the accused employee in the office, place, position or employment from which such person was removed, suspended demoted or discharged, which reinstatement shall, if the Commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. If, on the other hand, the Commission finds that such removal, suspension, demotion or discharge was not made for political or religious reasons and was made in good faith for cause, the Commission may affirm the removal, suspension, demotion or discharge, or, in lieu thereof, may order such greater or lesser discipline as it deems appropriate under the circumstances.
- c. If the hearing involves an investigation by the Commission into alleged irregularities or abuses, the Commission shall, if it finds that such irregularities or abuses have occurred or exist, order such corrective action as the Commission deems appropriate under the circumstances.
- d. In rendering its decision, the Commission shall make written findings and conclusions in support thereof. The findings shall contain a summary of the evidence relied upon by the Commission in reaching its decision, and the conclusion shall indicate the Commission's reasoning in applying the standard of review set forth. The Findings shall be certified in writing to the participating parties and shall be enforced by the appointing authority.

Section 6. Appeals of Commission Decisions

- a. The aggrieved employee in any removal, suspension, demotion or discharge may appeal from the Commission's decision or order to the Snohomish County Superior Court. Such appeal shall be taken by filing with the Snohomish County Superior Court and serving the Commission, each within ten (10) days after the entry of the Commission's judgment or order, with a written notice of appeal, stating the errors complained, the grounds therefore, and the relief desired, and demanding that a certified transcript of the record and all papers and exhibits on file in the office of the Commission affecting or relating to such judgment or order be filed by the Commission with such court. The accused shall pay to the Commission as determined by the Secretary all costs of preparing the transcript at the time the notice of appeal is filed. The Commission shall, within thirty (30) days after the filing of such notice and the payment of costs, make, certify and file

such transcript with such court. The Snohomish County Superior Court shall proceed to hear and determine such appeal in a summary manner; provided, however, that such hearing shall be confined to the determination of whether the judgment or order made by the Commission was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds.

- b. Any party desiring to appeal any decision of the Commission made as the result of a hearing or investigation into any matter other than a removal, suspension, demotion or discharge, must file an appropriate action in Snohomish County Superior Court within ten (10) days after the entry of the Commission's decision of order.

RULE 11 - PETITION OF A CITIZEN

Section 1. Submission of Petition

A citizen may submit to the Commission a petition stating that irregularities or abuses exist in the enforcement and effect of these Rules. The petition must be filed within thirty (30) days of the alleged irregularity or abuse. The petition shall include specific, identifying information about the alleged abuses or irregularities and the person(s) involved therein.

Section 2. Procedure for Investigation

The Commission shall conduct a hearing as set forth in Rule 10.

RULE 12 - RECORDS AND REPORTS

Section 1. Roster

The Secretary and Chief Examiner shall maintain in his/her custody a card or other suitable form of roster of employees in the classified service showing name, date of hire and title or position assigned.

Section 2. Examination Records

The Secretary and Chief Examiner shall maintain examination records in accordance with the Washington State General Records Retention Schedule for All Local Government Agencies.

Section 3. Access to Public Records

The Secretary and Chief Examiner of the Civil Service Commission shall have access to all departmental and institutional documents and records.

Section 4. Records Open to the Public

The minutes of all Civil Service Commission meetings shall be available to the public in accordance with the Public Records Act.

Section 5. Reports

The appointing authority shall report to the Commission at the Commission's regularly scheduled meetings changes in employment status for positions in the classified service.

RULE 13 - SEVERABILITY

If any of the rules and regulations or portions thereof are hereafter declared by a court of competent jurisdiction or judicial proceedings or rulings of a proper court to be illegal or unconstitutional, the part declared unconstitutional and/or illegal shall be deemed severable and such shall not effect the remaining rules and regulations or remaining portions of the rules and regulations.

APPROVED and ADOPTED as AMENDED by the City of Mill Creek Civil Service Commission on this 13th day of November, 2013.



Jack Eckrem, Chair




Lyle McRae, Commissioner



Chuck Wright, Commissioner

ATTEST/AUTHENTICATED:



Anne E. Compaan
Secretary/Chief Examiner