

RULE I DEFINITION OF TERMS

Unless some other meaning shall be apparent from the context, plurals shall include the singular and vice versa, and masculine, feminine and neuter shall be used interchangeably, and words shall have the meanings defined below.

Section 1. "Advancement" means a salary increase within an arranged schedule of established rate of pay for a class of positions made without examination.

Section 2. "Appointing Authority or Power" is the City Manager. The City Manager is vested with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

Section 3. "Emergency Appointment" means an appointment to serve in a classified position under emergency conditions for the duration of the emergency, which usually should not exceed thirty days.

Section 4. "Provisional Appointment" means a non-competitive appointment to a position in the classified service made in the absence of eligible candidates pending the establishment of an eligibility list for the class of employees.

Section 5. "Temporary Appointment" means an appointment of eligibles from any employment or promotional list with regard to willingness of the eligible to accept the employment (which is limited to six months) rather than by following a strict order of position on the eligible list.

Section 6. "Class" means 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.

Section 7. "Classified Service" means the full-time positions in the City service which are subject to the provisions of these Rules including all full paid members of the fire and police departments, except those excluded by Chapter ~~2.42~~ 2.40.050 of the Toppenish Municipal Code (TMC).

Section 8. "Commission" means the Civil Service Commission appointed for the City of Toppenish.

Section 9. "Compensation" means the allowance, fee, salary or wage paid to an employee or officer in the classified service for performing the duties and responsibilities in the classified service.

Section 10. "Demotion" means a reduction in employment status to a status to a class of positions having a lower scale of pay.

Section 11. "Covered Department" means a department of the City including the employees thereof which has been made a part of the classified service by ordinance.

Section 12. "Discharge" means the separation of a permanent employee from the classified service for cause.

Section 13. "Eligible" means the condition of being qualified by examination or prior service to serve in a position without regard to ranking for an employment or promotion list.

Section 14. "Eligibility List" or "Employment List" or "Promotion List" means a list of eligible persons arranged in order of qualification for appointment, or promotion, to a position in the classified service.

Section 15. "Employee" means 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 upon his return.

Section 16. "Full Paid Police Department" or "Full Paid Police Officer" means that the officers and police officers employed in such are paid regularly by the City and devote their whole time to police duty, except for those officers excluded by Chapter 2.42 of the TMC.

Section 16A. "Full Paid Fire Department" or "Full Paid Firefighter" means that the officers and firefighters employed in such are paid regularly by the City and devote their whole time to fire fighting and fire prevention activities and emergency medical services, except for those officers excluded by Chapter 2.42 of the TMC.

Section 17. "Layoff" means the termination of employment because of lack of funds or work or because of a material change in organization.

Section 18. "Minor Disciplinary Action" shall mean any punitive or correctional action ordered by the appointing authority upon members of the classified service for dereliction of duty, or infraction of rules, orders or policies, exclusive of removal, demotion, suspension or reduction in pay or grade or removal of vacation privileges.

Section 19. "Public Notice" means giving notice by posting in at least three conspicuous places in a public office or building within the City or by publication in a newspaper circulated within the City or by both.

Section 20. "Service of Written Notice" as required under these Rules and Regulations means the service of notice in writing as follows:

- (1) Upon permanent employees by personal or substituted services as provided by RCW 4.28.080(13) and 4.28.100(2).
- (2) Upon the appointing authority by delivery in person or by registered mail to the appointing authority or his aide at the appointing authority's office in the City Hall.
- (3) Upon the Commission or members thereof by personal or substituted service upon the Chairman at his or her usual abode or upon the Secretary of the Commission at the Secretary's office in City Hall.

Section 21. "Permanent Employee" means an employee who has attained permanent status.

Section 22. "Permanent Status" means the status of an employee who has acquired employment security rights under these Rules and who, by reason of prior service or by successful completion of his probationary period is entitled to written accusation as a condition precedent to removal, suspension, demotion or discharge, and to demand a hearing thereon following the completion of the employee's probationary period.

Section 23. "Permanent Appointment" means the achievements of a permanent status in position or rank commencing with the date of certification, by the appointing authority at the conclusion of the, probationary period on the probationer's satisfactory performance of the duties of the position. The ranking of personnel within a class for the purposes of determining relative authority in command shall be determined by the priority of date of certification of an appointment to permanent status following completion of the probationary period.

Section 24. "Position" means employment or office acquired or held subject to these Civil Service Rules.

Section 25. "Probation" means the period of conditional employment or the period of trial service which an employee works prior to attaining permanent appointment into a classified position and during which period such employee may be restored to the prior position held if any, or terminated if in initial employment without a right to Civil Service hearing.

Section 26. "Promotion" means a change in employment status in accordance with these Rules from a lower to higher position in the classified service.

Section 27. "Original Appointment" for the purpose of determining:

- (1) Salary and employee benefits means the date or occasion of first appointment into the services covered by these Rules.
- (2) Ranking of authority in a position within the classified service and for seniority for reduction in rank means the date of permanent appointment to the position.

Original appointments shall be subject to the probationary regulations of Rule IX.

Section 28. "Rejection" means the separation of a probationary employee from the service.

Section 29. "Suspension" means temporary separation of an employee from the service, without pay, for disciplinary purposes.

Section 30. "Lateral Entry" means the transfer of a uniformed police officer or firefighter from another jurisdiction to probation level.

Section 31. "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.

RULE II CIVIL SERVICE COMMISSION

Section 1. Organization. The Civil Service Commission annually and/or upon the appointment or re-appointment of a member shall proceed with the election of a Chairman, who shall continue in office until subsequent reorganization becomes necessary as or by resignation of the Chairman. The Chairman shall preside at all meetings of the Commission, sign necessary papers as Chairman, and carry out the usual duties assigned to a chairman. In the temporary absence of the Chairman, one of the members of the Commission may be selected to serve as temporary Chairman. 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 Chairman and countersigned by the Secretary and shall become a part of the permanent files of the Commission.

Robert's Rules of Order shall control on questions of procedure except as otherwise provided by these Rules.

Section 2. Date, Time and Place for Regular Meetings. Regular meetings of the Toppenish Civil Service Commission shall be held on the second Wednesday of each calendar month at 4:30 P.M. in the Toppenish Police Department at Toppenish, Washington, or any other location open to the public.

Special meetings of the Commission may be held within the City upon call of the Chairman or any two members of said Commission at a time and place or which notice has been given according to the provisions of RCW 42.30.080 and written notice of which shall be given to the Commission members at least 12 hours in advance of said meeting unless a waiver thereof is received from such members.

Section 3. Meetings. Public: Executive Sessions. All regular meetings of the Commission shall be open to the public, and no resolution, rule, regulation, order or directive shall be adopted by the Commission except in a regular or special meeting open to the public, the date of which is fixed by law or rule or notice of which has been given according to the provisions of RCW 42.30.080.

Executive sessions of the Commission may be held: (1) when hearing complaints or charges brought against a covered officer or employee for which the affected officer or employee has not requested a public hearing, and (2) when the Commission is considering the substance of a charge or (3) deliberation on, testimony, or exhibits presented at an appeal hearing.

Section 4. Powers and Duties. The Civil Service Commission shall:

- (1) Make suitable rules and regulations which are not inconsistent with the provisions of Chapter 2.42 of the TMC. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges shall be made. The rules

and regulations and any amendments thereof shall be printed, mimeographed or multi-graphed for free public distribution. Such rules and regulations may be changed from time to time.

- (2) Make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter.
- (3) Establish and maintain in card or other suitable form a roster of employees covered by civil service.
- (4) Provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligibility lists for the various classes of positions as established by the City, and to provide that employees laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be re-employed.
- (4a) All tests shall be practical and shall consist only of subjects which will fairly determine the capacity of persons examined to perform the duties of the position to which appointment is to be made, and may include but not limited to, tests of physical fitness and/or of manual skill, written, oral, psychological, or assessment center evaluation.
- (5) Provide for Veterans' Preference in examinations, according to the provisions of Section 41.04.010 of the Revised Code of Washington, and as hereinafter amended.
- (6) When a vacant position is to be filled, certify to the appointing authority, on written request; the name of the five persons highest on the eligibility list for the class. If there are no such lists, the Commission shall make provision in their rules for provisional or temporary appointments for such positions. Such temporary or provisional appointment shall not exceed a period of six months in duration but may be extended for up to an additional six months if for any reason it cannot be determined at the expiration of the initial appointment that the position being filled by temporary or provisional appointment will in fact be vacant, such as in the instance of a position vacant due to an officer on disability leave under the LEOFF Act, or for other good cause which in the discretion of the Commission warrants an additional extension of such a provisional or temporary appointment.
- (7) Record and approve minutes of the Commission's meetings and keep such records as may be necessary.
- (8) Appoint a Secretary/Examiner in conformity with Rule III.
- (9) Begin and conclude all civil suits which may be necessary for the proper enforcement of Chapter 2.42. of the TMC and of the Rules of the Commission. The Commission shall be represented in such suits by the chief legal officer of the City, or his/her designee, but said Commission may in any case be represented by special counsel appointed by the Commission.
- (10) Exercise such other powers and perform such other duties as may be imposed by virtue of the provisions of Chapter 2.42 of the TMC.

Section 5. Relationship with City Officials and Employees.

- (1) General. The Commission shall serve as an administrative body to promulgate rules and regulations in furtherance of the ordinances and laws governing civil service in the City of Toppenish. Such rules and regulations of the Commission shall be developed through consultation and other communications from the City Manager and/or the designated authority of the respective departments, their employees and interested citizens.
- (2) With City Council. The Commission shall meet with the City Council, or duly appointed committees thereof, on request of the Council, committee, City Manager or commissioners, to discuss and clarify the policies expressed or administered under the Commission's Rules.
- (3) With Employees. The Commission as a whole, or the duly designated members thereof, may meet to discuss the purpose and effect of regulations, or the observance thereof, with employees of the classified service.
- (4) Quasi-Judicial Matters. The Commission and its members shall not discuss any of the alleged facts relating to any disciplinary actions then pending except as part of a due process hearing. In addition, the commissioners shall not discuss with the appointing authority facts relevant to possible disciplinary actions.
- (5) Power to Create Offices. Make Appointments and Fix Salaries Not Infringed. All offices, places, classifications, job descriptions, positions, and employments coming within the purview of Chapter 2.42. of the TMC shall be created by the City Council and City Manager or whomever otherwise is vested with power and authority to select, appoint, or employ any person coming within the purview of Chapter 2.42 of the TMC 'and the Commission shall not infringe upon the power and authority of any such person or group of persons or appointing authority to fix the' salaries and compensation of all employees employed thereunder.

Section 6. Deceptive Practices. False Marks, etc. Prohibited. No commissioner or any other person shall, by himself or in cooperation with one or more persons, defeat, deceive, or obstruct any person in respect of this right of examination or registration according to the rules and regulations of Chapter 2.42 of the TMC and this Commission, or falsely mark, grade, estimate or report upon, the examination or proper standing of any person examined, registered or certified pursuant to the provisions of Chapter 2.42 of the TMC, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person, so examined, registered or certified, or to be examined, registered or certified or persuade any other person, or permit or aid in any manner any other person to impersonate him, in connection with any examination or registration of application or request to be examined or registered.

RULE III SECRETARY/EXAMINER

Section 1. Selection. The Commission shall appoint a Secretary/Examiner from a rating list resulting from competitive examinations which shall be open to any person who is a citizen of the United States and who can read and write the English language and shall not otherwise be a member of the classified service. Such Secretary/Examiner shall be subject to reduction or discharge from the service in the same manner and subject to the same limitations as are provided in the case of classified service. This would not be a Civil Service position unless the person selected was already employed in a full time, Civil Service position.

Section 2. Duties. The Secretary/Examiner shall:

- (1) Keep the records for the Commission.
- (2) Preserve all reports made to the Commission.
- (3) Keep minutes of the Commission's meetings, hearings and other activities.
- (4) Be responsible for the correspondence of the Commission.
- (5) Superintend and keep a record of all examinations held under the direction of the Commission.
- (6) Establish and maintain eligibility lists and give notice of examination for renewing or revising said lists.
- (7) Maintain a record of permanent and temporary positions and certify the same for payroll reports.
- (8) Make investigations and reports to the Commission as required.
- (9) Perform such other duties as the Commission may require.

RULE IV INVESTIGATIONS AND HEARINGS

Section 1. **Investigations.** Investigations may be made by the Commission, by any commissioner designated by the Commission for that purpose, or by the Secretary/Examiner as the Commission may direct. Not only must these investigations be made by the Commission as aforesaid, but the Commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation.

In the course of such investigation the Commission, designated commissioner, or Secretary/Examiner shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to, the investigation and also to cause the deposition of witnesses residing within or without, the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered by a superior court judge in his judicial capacity; and the failure upon the part of any person so subpoenaed ,to comply with the provisions of this section shall be deemed a violation of Chapter 2.42 of the TMC.

Section 2. **Hearings.** The procedure of any hearing or Investigation may be informal and shall not be restricted so as to deny the introduction of any evidence that the Commission may deem pertinent. In the conduct of hearings neither the Commission nor designated commissioner shall be bound by the technical rules of evidence. No informality in any proceedings or hearing or in the manner of taking testimony before the Commission or designated commissioner shall invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission; Provided, however, that no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation along shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members. All decisions, findings of fact, orders, rules and recommendations arising from a hearing or investigation by the Commission shall be countersigned and filed as a permanent record by the Secretary/Examiner. Any member may submit a minority or supplemental report which shall be filed with said records.

Unless incapacitated a person pressing a claim or defending a privilege before the Commission shall appear personally and shall not be excused from answering questions and supplying information except upon claim of the constitutional privilege in respect to self-incrimination. If incapacitated, such a person shall present a deposition taken under oath.

RULE V CLASSIFICATIONS

Section 1. Filling Positions. The Civil Service Commission, upon being notified of the vacancy in an established position or of the establishment of a new position, shall certify no eligible to such position unless or until an appropriate eligibility list is established therefor.

Section 2. Reclassification. Reclassification of positions, or re-description of duties for an established position, or the creation of a new position or transfers between classifications shall not be used for the purpose of avoiding the provisions herein regarding promotions or demotions. Employees in a position which has been abolished or the duties of which have been changed materially may be reclassified to a position substantially similar to the prior position without competition or examination; Provided, however, no transfer or reclassification of an employee to a class or position having either a greater or lower maximum salary range shall be effective unless recommended jointly by the appointing authority and the Commission and unanimously approved by the Commission.

Section 3. Covered Positions. These Rules apply to all full-time, fully-commissioned officers of the City's Police and/or Fire Departments except for the position of Police Chief and Fire Chief, who because of the nature of their positions shall serve in their positions as other City department heads and assistants. All clerical, dispatchers, fire inspectors, mechanics and other employees of either the Police Department or Fire Department who are not fully paid commissioned police officers or firefighters are covered under these Rules.

Section 4. Existing Positions Blanketed Under Civil Service. For the benefit of the public service and to prevent delay, injury or interruption therein, all persons in the Police and Fire Departments who have been appointed under Civil Service to the offices, places, positions or employment which they now hold shall be, and they hereby are automatically adopted and included, and to continue under Civil Service, pursuant to Chapter 2.42 of the Toppenish Municipal Code, into such offices, places, positions or employment which such persons hold.

RULE VI APPLICATION FOR EXAMINATION

Section 1. Announcement of Examinations. Whenever there is need for a current and adequate list of eligible candidates for position or promotion, the Secretary/Examiner shall make an announcement thereof and give public notice inviting qualified persons to apply for admission to the examination scheduled to select the most competent persons for employment in the classified service. Public notice of the examination shall specify the title and salary range of the position, a brief outline of the requirements of the position and the final date upon which applications therefor will be received. Persons desiring to compete for positions in the competitive examination shall file applications with the Secretary/Examiner on forms supplied by the Civil Service Commission.

Section 2. Lateral Entry. Lateral entry may be allowed for permanent full-time Police and Fire Department positions covered under these rules. The testing procedure involved in such cases shall be in-house oral boards only.

(1) Police Officers who are currently employed in full-time law enforcement service with a Washington State civilian law enforcement agency or equivalent and have received the Washington Criminal Justice Certification or equivalent or are in the process of successfully completing the Washington State Criminal Justice Academy; or who were employed in full-time law enforcement service with a Washington State civilian law enforcement agency or equivalent and who currently hold the Washington Criminal Justice Peace Officer's Certification or equivalent and have not had a break in service of more than twelve (12) months.

(2) Police Reserves who have successfully completed the Washington State Criminal Justice Training Commission Reserve Academy and one year of service for the Toppenish Police Department will be included in the Police Officer lateral testing and given five (5) additional points on their oral score.

(3) A Lateral firefighter applicant includes;

A. Firefighters who have a minimum of three (3) years experience as full-time career firefighters and currently employed with a Municipality, Fire District or Federal Firefighting Agency from within the State of Washington and currently possess a Washington State Emergency Medical Technician (EMT) Certificate.

B. Volunteer Firefighters who have a minimum of three (3) years experience and currently actively volunteering with a Municipality or Fire District from within Yakima County and currently possess a Washington State Emergency Medical Technician (EMT) Certificate. Applicants who meet these requirements who currently serve the City of Toppenish Fire Department shall receive five (5) additional points on their oral score.

(4) Lateral entry for Corrections/Maintenance may include persons who have completed the Washington State Criminal Justice Training Commission Corrections Officers Academy or equivalent and who have served two years of service with a law-enforcement agency, with a Washington State civilian law enforcement agency or equivalent, within the last three years.

(5) Dispatcher/Clerks seeking lateral entry must be currently employed with a law

enforcement agency or an emergency dispatcher center and hold a Criminal Justice Training Commission Telecommunicator certificate or equivalent.

Section 3. Affirmative Action Programs. Examinations devised by the Secretary/Examiner shall avoid discriminatory qualifications for employment in the classified service based on race, color, national origin, religion, sex, marital status, age and physical characteristics or ability, except such as may be required upon demonstrable job-related factors. Examinations of applicant attitude in training programs shall be evaluated on the basis of individual abilities and performance and not upon the basis of extraneous factors, such as race, religion, sex or age.

Section 4. Capacity Assessment. Where budget appropriation or state or federal funding will permit, the Secretary/Examiner shall utilize intern, cadet or training programs for on-the-job evaluation of an applicant's capacity to develop skills for proper job performance and ranking for employment lists. Such applicant must be able to read and write the English language, be of suitable age, good health, good moral character and temperament and industrious habits.

Section 5. Rejection of Application. The Secretary/Examiner may refuse to accept an application or, after acceptance, may reject an application, or after examination, may disqualify a successful candidate or remove the name of a successful candidate from the eligibility list or refuse to certify the name of a successful candidate whenever the applicant or eligible candidate is found to lack any of the minimum prerequisites established for the class or position, or is addicted to the use of Intoxicating liquors to excess, or drugs, or has been guilty of infamous or notoriously disgraceful conduct, or has made false statements of material facts in his application, or has practiced deception or fraud in securing eligibility, or has otherwise violated the provisions of law or these Rules. The cause for rejection shall be entered upon the application form and filed in conformity with these Rules.

Section 6. Reapplication. No applicant who has failed the examination or whose application has been rejected for good cause may reapply within six months from the date on which the examination was given or rejection was made.

Section 7. Withdrawal of Application. An applicant may withdraw his/her application at any time without prejudice against reapplication provided such withdrawal is made prior to any qualifying examination being administered to or participated in by the applicant. Failure to take 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 Secretary/Examiner.

RULE VII

EXAMINATIONS AND SUBSCRIPTION TESTING SERVICE

Section 1. Conduct of Examinations. The Secretary/Examiner shall arrange for the use of public facilities and for the conducting of examinations which shall be practical and which will fairly determine the capacity of the applicant to perform or to learn to perform the duties of the position. Such examination may include tests of physical fitness, of manual skill, dexterity or other job-related capabilities. The Commission may designate a qualified person or agency to give and score the examination. The examination may be waived, at the discretion of the Civil Service Commission, where, an applicant has taken the same examination within the past 90 days, in connection with testing by another jurisdiction, and where said applicant's test score is provided to, the Commission, in which case the applicant's score on that examination shall be his or her score for rating purposes by this Commission.

Section 2. Rating and Preparation of Lists. The names of persons successful, in all parts of an examination shall be arranged in order of their earned ratings, including any germane preference status legally required by state law on entrance examinations for a veteran; provided, that applicant has received a minimum passing grade in such examination without aid of such preference. Where a veteran's preference may be claimed on an entrance examination, proof of honorable discharge or, certificate or honorable active service shall be submitted at the time of making application for the examination.

The veteran's preference shall be granted to all veteran's as defined RCW 41.04.005 by adding to the passing mark, grade or rating applicable to said veteran's first appointment, the preference required by RCW 41.04.010.

The provisions of this section shall not be applicable to promotional examinations to determine the qualifications of officers or employees for promotion from a lower grade position to a higher grade position; provided, that when a veteran previously employed in the classified service immediately prior to military service returns to the prior employment, he shall be entitled to the same promotional opportunity that he would have enjoyed had he not entered military service.

Section 3. Notification of Results. Each competitor shall be notified by mail of the results of the examination and, if successful, of his final earned rating and his relative position on the eligibility list. Any applicant shall have the right of inspecting his own test papers.

Section 4. Promotional Examinations.

- (1) As the needs of the service may require, promotional examinations may be conducted from time to time and may consist of evaluations of prior service, accomplishments in special training courses, or other pertinent tests. All candidates for promotion must be permanent, employees in the classified service of the City and must possess the minimum prerequisites as set forth in the specifications of the class to which promotion is sought.

- (2) If calls for promotional examinations do not produce qualified applicants from within the City's classified service, or if a list of eligibles cannot be certified from such examinees, the Secretary/Examiner may, with the consent of the Civil Service Commission, submit the examination to experienced applicants in such fire or police service from outside the classified service of the City.

Section 5. Subscription Testing Services.

- (1) Authorization. The Secretary, following approval by the Commission, may utilize contracts with one or more Subscription Testing Services.
- (2) Subscription Testing Service – Defined. “Subscription Testing Service” means a person or organization offering a service that tests and maintains lists of candidates for employment who have successfully completed the Subscription Testing Service process.
- (3) Process Verification. The Secretary shall verify that the Subscription Testing Service provides qualified testing resources that are content valid and job-related.
- (4) Certification.

4.1 All applicants certified as a qualified candidate by the Subscription Testing Service shall be reviewed and approved by the Commission prior to referral to the appointing authority. Following qualification of candidates pursuant to the procedure set forth in the contract with the Subscription Testing Service, candidates may be certified as eligible for appointment to the Appointing Authority.

4.2 By motion or other approval, the Commission may delegate to the Secretary the review and approval of candidates. Upon such delegation, the secretary shall verify that candidates for placement on the eligible register meet the minimum eligibility requirements for employment.

4.3 Candidates qualified for appointment pursuant to the procedures established in this Rule shall be placed on a separate register, entitled “Contract Register” plus the register in the same rank and order as lists maintained by the Subscription Testing Service.

Provided, however that candidates rejected by the Commission for 1) not satisfying any test requirement; 2) not completing probation; or, 3) following certification, not responding to the appointing authority for consideration, shall be removed from the eligible register.

(5) 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 appointing authority. Such testing shall include, but not be limited to, background, polygraph, psychological, physical agility [add others as appropriate] testing.

RULE VIII ELIGIBILITY LISTS

Section 1. Order of Names on Lists. Names on eligibility lists for a class of service shall be listed in order of qualification according to final rating earned in the examination, including veteran preference credits where applicable, except that employees laid off from a position in that class shall be given prior preference over original applicants in inverse order of layoff. Whenever two or more persons have equal claim to a position on a list, their names shall be arranged according to the date of application and, if the same, alphabetically.

Section 2. Effective Life of Lists. Eligibility lists including the name of five eligibles attaining the highest ranking in the competitive examination shall become effective upon the approval thereof by the Secretary/Examiner's signature to the effect that the list was legally prepared and represents the relative rating of the names appearing thereon and certified by the Civil Service Commission. Eligibility lists, including promotional lists, shall remain in effect for not more than one year unless otherwise ordered by the Commission. Names appearing on lists by reason of layoff shall remain effective for one year.

Section 3. Removal of Names from Lists. The name of any person appearing on an eligibility list may be removed by the Secretary/Examiner if the candidate fails to respond to a notice of certification (see Rule IX, Section 2). In case of such removal the Secretary/Examiner shall notify in writing, the candidate affected at his last known address. The name of the person so removed may be reinstated only if satisfactory explanation of the circumstances is made, to the Commission. The names of persons on promotional employment lists who resign from the service shall be automatically dropped from such lists.

Upon a determination by the appointing authority that an eligible applicant, whose name appears on a certified list, does not satisfy the qualifications for employment in a covered position, the City shall notify the Commission and the applicant stating in general terms its reasons for such determination. The Commission shall remove the name of the particular applicant from the eligibility list unless the applicant, within ten days of service or delivery of said notice of his disqualification, appeals said determination to the Commission.

Section 4. Notice of Change of Address. Each person on an eligibility list shall file with the Commission written notice of any change of address, and failure to do so may cause removal of his name from the list.

Section 5. Revocation of List. An employment list or a promotional list may be revoked, and another examination be ordered only upon the recommendation of the Secretary/Examiner with the approval of the Commission, when such action is deemed advisable by the Secretary/Examiner on account of fraud, errors, or of inappropriate standards prescribed in connection with the examination which did or could have resulted in unfair or inaccurate grading of qualifications. No lists shall be altered or revoked except upon written notice to all persons whose eligibility or standing may be affected, and upon a statement of the reasons for the revocation or alteration being entered in the minutes of the Commission.

RULE IX APPOINTMENT, TRANSFER AND PROMOTION

Section 1. Procedure. All positions in the classified service shall be filled by original appointment, temporary appointment, provisional or emergency appointment, re-employment, promotion, transfer or demotion. Upon being advised by the appointing authority of a vacancy in a position, the Secretary/Examiner shall immediately certify the five highest ranking eligibles of an eligibility list for such vacant position, if there be no list of eligibles, the Secretary/Examiner shall call for examinations in accordance with TMC Chapter 2.42 and these Rules, or otherwise determine what lists shall be the final decision as to the method of filling the position will be vested in the appointing authority as controlled by these Rules and Regulations.

Section 2. Failure to Respond. Whenever a candidate whose name has been certified for appointment fails to answer an inquiry of the Secretary/Examiner or of the appointing officer within five business days next succeeding, the mailing of such notice of certification, or fails to accept an appointment when offered if within the same period, or within the next succeeding business day when notification is supplied verbally or by telephone, he may be deemed to have declined appointment. If any person certified by the Commission is removed from the list, or otherwise requests to not be considered for appointment, the Commission shall forthwith certify the next highest person or persons on the list to replace those removed. If a candidate accepts appointment within the period outlined and fails to present himself for duty within three days of the date specified in the notice, he may be deemed to have declined appointment.

Section 3. Dropping Name from List. Any person who declines certification or appointment or who fails to report shall be permanently dropped from the list on which his name appears unless he shows satisfactory cause to the Commission for his action. Notice of removal shall be given to the candidate as provided in Rule VIII, Section 3.

Section 4. Emergency Appointment. To meet the immediate requirements of an emergency condition which threatens life or property, the appointing authority may employ any person or persons whom they may be legally empowered to appoint without restriction of civil service law and rules. Such employment shall be limited to the duration of the emergency period, but not longer than thirty (30) days.

Section 5. Provisional Appointment. A provisional appointment to a covered position may be made for a temporary absence of one or more eligible candidates on a "list of eligibles" for the position to be filled. In such case the appointing authority may make a provisional appointment of an eligible pending preparation of a sufficient list of eligibles, or may refer a candidate having the minimum prerequisites for the position to the Secretary/Examiner for examination. The Secretary/Examiner shall interview or may use any other method to determine whether or not the candidate possess the necessary experience, training, and other prerequisites for the Position. If such candidate has the minimum prerequisites, his name shall be certified to the appointing authority for appointment, and his application shall be accepted for an examination to determine whether he qualifies by grade for an employment list for the position. As soon as practicable the Secretary/Examiner shall announce and conduct an examination for the position and shall certify a list of names with ranking for regular appointment to the position in the usual manner.

No provisional appointment shall be continued longer than six months but may be extended for up to an additional six months if for any reason it cannot be determined at the expiration of the initial appointment that the position being filled by provisional appointment will in fact be vacant, such as in the instance of a position vacant due to an officer on disability leave under the LEOFF Act, or for other good cause which in the discretion of the commission warrants an additional extension of such a provisional appointment. No time spent as a provisional appointee shall be credited to the probationary period, or be utilized for computing any privilege accruing under civil service law or these Rules.

Section 6. Temporary Appointment. In making a temporary appointment the appointing authority shall make requisition to the Secretary/Examiner in the manner provided for regular appointment but shall indicate the time at which it is estimated the position will terminate. The Secretary/Examiner shall notify the person or persons appearing on the appropriate eligibility list, or lists, indicating the nature of the position and its duration, to learn who may be willing to accept temporary appointment. The most qualified person or persons willing to accept shall be certified for appointment.

Notwithstanding other provisions above to the contrary, the appointing authority may make temporary transfers or appointments to fill temporary vacancies caused by disability, illness or vacations without seeking a list of eligibles therefor, and the employee temporarily filling the position may be paid the compensation usually paid for such service.

No temporary appointment shall be continued and no person shall be employed on a temporary basis for more than six months in any one year, but may be extended for up to an additional six months if for any reason, it cannot be determined at the expiration of the initial appointment that the position being filled by temporary appointment will in fact be vacant, such as in the instance of a position vacant due to an officer on disability leave under the LEOFF Act, or for other good cause which in the discretion of the Commission warrants an additional extension of such a temporary appointment. Temporary services shall not be credited on any probationary period or be used in computing any privilege accruing under civil service law or these Rules.

Section 7. Probationary Appointment. All promotions in employment status to a higher position in the classified service shall be accomplished through appointment to a service in the higher rank on a probationary status for the period prescribed in Rule XI, Section 1. The date of such probationary appointment shall fix the time of original appointment to the position for determining the period of employment in the higher position for salary and employee benefits; provided, however, the time period of any disciplinary reduction in rank, duty, or pay shall be omitted from computation of seniority credit at the higher position but shall be included in computation of service in such lower rank.

RULE X PROBATIONARY PERIOD

Section 1. Length of Period. No person shall be finally appointed to a permanent status in a position in the classified service until he/she has satisfactorily served a probationary period of twelve months on original entry or on promotion. The Commission upon request of the appointing authority shall extend the probationary period up to six (6) months. With the concurrence of the appointing authority the probationary period may be waived or modified for persons re-employed who have formerly acquired permanent status in the class.

Section 2. Rejection of Probationer. During the probationary period the appointing authority at his discretion may reject a probationary employee, if during the probationary period or upon observation or consideration of, the performance of duty, or for any other non-discriminatory reason, the appointing authority deems him/her unfit or unsatisfactory for service in the department. Notice of rejection shall be given the probationer and a copy forwarded to the Secretary/Examiner.

Section 3. Termination of Probationary Status. Prior to the completion of the probationary period, the appointing authority shall report to the Commission on the probationer's service and efficiency and shall make recommendations regarding retention in the permanent service, unless the probationer has been rejected. No salary or other compensation shall be paid, for the services of any probationer following the expiration of the probationary period until the appointing authority has filed with the Commission a statement in writing that the services of the probationary employee were satisfactory and his retention in the service desired. The Secretary/Examiner shall notify the appointing authority two weeks prior to the termination of any probationary period.

Section 4. Rejection after Promotion. A promotional appointee who is rejected during the probationary period from the position to which he was promoted shall be restored to the position from which he was promoted.

RULE XI
TRANSFERS, LAYOFFS AND REDUCTIONS

Section 1. Transfers. A transfer consists of the change of an employee from one position to another position in the same or comparable class. The change of an employee from a position in a comparable class. The change of an employee from a position a class with a lower rate of pay to a position in a class with a higher maximum rate of pay should be deemed a promotion and may be accomplished only in the manner provided in these Rules for making promotional appointments. No increase or advance in salary shall be made upon transfer unless the rules governing salary advances are complied with and no decrease in salary shall be made unless the rules regarding reductions in salaries are complied with. Transfers of employees from one organization unit to another organization unit may be made with the approval of the appointing authority.

Section 2. Layoff. Whenever an appointing authority contemplates a reduction of staff because of shortage of funds, lack of work, or material reorganization of the department, notice shall be sent to the Secretary/Examiner who shall cooperate with the appointing authority in determining the most advisable procedure and readjustment as to personnel and reassignment of duties. Where it is decided which positions are to be abandoned, employees holding positions within a class shall be laid off in inverse order to their length of service and value to the City. Any complaint by a permanent employee that layoff was in bad faith shall be investigated by the Secretary/Examiner who shall submit a report and recommendations to the Civil Service Commission. If the Commission finds that the layoff was irregular, it may order the reinstatement of the permanent employee or employees.

Notice of layoff shall be given the employee concerned and the Secretary/Examiner at least one week before the effective date thereof. Employees laid off shall have their names placed on the eligibility list of the class to which their position was allocated in accordance with these Rules, for a period of 12 months or until they refuse an offer of rehire.

RULE XII

SUSPENSIONS, DEMOTIONS, DISCHARGES, AND APPEALS

Section 1. Procedure for Suspension, Demotion or Discharge and Appeals. No person in classified civil service, as a permanent member thereof, shall be removed, suspended, demoted or discharged except for cause and only upon written accusation of the appointing authority served upon the accused and a duplicate filed with the Commission. Any employee so removed, suspended, demoted or discharged, within ten days from the time thereof, may file with the Commission a written demand for an investigation, which shall be confined to the determination of whether such action was or was not made for political or religious purposes or was not made in good faith for cause. After investigation, which shall include a hearing, the Commission may affirm, reverse or modify the order of the appointing authority as authorized by Chapter 2.42 of the Toppenish Municipal Code and shall file a written statement of the Commission's findings in support of its order with its records and serve a certified copy thereof on the appointing authority. If the Commission shall find that the removal, suspension or demotion was made for political or, religious reasons, or was not made in good faith for cause, it shall order the immediate, reinstatement or re-employment of such person in the office, place, position or employment from which such person 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.

Section 2. Suspensions. The appointing authority, for disciplinary purposes, may suspend a permanent employee without pay for a period not to exceed thirty days per incident. Such action shall immediately be reported to the Secretary/Examiner.

Section 3. Suspension, Demotion and Discharge. The appointing authority may suspend, demote or discharge a permanent employee for inefficiency or other just cause. In, such cases written accusation therefor shall be served upon the employee and filed with the Commission. Upon receipt of a notice of appeal, which shall be filed with the Commission within ten days after service or delivery of written accusation on the employee, the Civil Service Commission shall promptly make investigation of the circumstances surrounding the action and shall report the findings to the employee, and the appointing authority. The Commission, within 15 days after the receipt of the notice of appeal, shall hold or provide for holding a hearing of which the employee and the appointing authority shall be given notice of the date, time and place of such hearing, and at which the employee and the appointing authority shall have the privilege to be heard either personally or through counsel. All hearings shall be informal and shall be conducted with the object of obtaining the facts in the matter and of arriving at a just and equitable determination as to whether or not the suspension, demotion or discharge was made for religious or political reasons or for cause in good faith. Within ten days of the conclusion of the hearing the Commission shall render its decision. The findings of the Commission shall be certified, in writing, to the appointing power. If the decision of the Commission orders a modification of the suspension, demotion or discharge, the findings shall state wherein the Commission finds that political or religious reasons existed or that the order was not made in good faith for cause.

Section 4. Cause of Discharge. In addition to those listed in the civil service ordinance and pursuant to the procedures set forth in Section 2.42.070 of the Toppenish Municipal Code, the following are declared to be cause for discharge from the classified service:

- (1) Incompetency, inefficiency or inattention to or dereliction of duty.
- (2) 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 other willful failure on the part of the employee to properly conduct himself; or any willful violation of the provision of TMC 2.42 or the Rules and Regulations adopted by the Commission.
- (3) Mental or physical unfitness for the position which the employee holds.
- (4) Dishonest, disgraceful, immoral or prejudicial conduct.
- (5) Drunkenness or use of intoxicating liquors, narcotics or any other non-prescription habit forming drug, liquid or preparation while on duty or 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 any position under civil service.
- (6) Conviction of a felony or a misdemeanor.
- (7) Acceptance for personal use of a fee, gift or other valuable thing.
- (8) Misuse of position.
- (9) Falsifying reports or records.
- (10) Violation of law, of official rules or regulations, of orders, or failure to obey any lawful or reasonable directions when such failure or violation amounts to insubordination or breach of discipline.
- (11) Willful or repeated negligence in performing duties. Engaging in activities which interfere with the ability to perform the job effectively.
- (12) Conduct subversive of public order and discipline, and sustained conduct detrimental to the efficiency or morale of the service.
- (13) Any other act or failure to act which in the judgment of the Civil Service Commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

Section 5. Court Appeal. The accused may appeal the Commission's decision according to the procedure provided by TMC 2.42.070. The costs of all transcripts and copies to be certified by the Commission shall be paid by the appellant pending final disposition of the case by the court.

RULE XIII LEAVES AND RESIGNATIONS

Section 1. Leaves of Absence Without Pay. An appointing authority may grant a permanent employee leave of absence without pay not to exceed one year. The appointing authority shall give notice of such leave to the Commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified civil service. No leave without pay shall be granted except upon written request of the employee. Upon the expiration of a regularly approved leave without pay, the employee shall be reinstated to the position held at the time leave was granted. Failure on the part of an employee on written leave to report promptly at the expiration of a leave shall be cause for discharge. Employees who qualify as veterans under terms of Chapter 73.16 RCW shall have a maximum of ninety days from the date of their separation from service to report for duty and as provided in RCW 73.16.035.

Section 2. Resignation. An employee wishing to leave the classified service of the City in good standing shall file with the appointing authority or chief of the department involved at least two weeks before leaving a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the Commission with a statement by the chief of the department and any pertinent information concerning the cause for resignation. Failure to comply with this rule shall be entered on the service record of the employee and may be cause for denying future employment by the City. The resignation of an employee who fails to give notice shall be reported by the chief of the department involved immediately.

Section 3. Vacation and Sick Leave. Vacation, sick and disability leaves with pay shall be granted to all permanent employees in the classified service in accordance with the general rules and ordinances of the City of Toppenish.

Section 4. Reinstatement. Within one year after resignation a resigned employee with the approval of the appointing authority and with concurrence of the Commission may be reinstated in the position from which he resigned, if vacant, or in a vacant position in the same or comparable class; or with the approval of the Commission, such resigned employee may be placed on the top of the eligible lists for the class in which his former position was allocated. No person resigning during the probationary period shall be reinstated, but with the approval of the Civil Service Commission may be placed at the top of the list from which he was certified and appointed.

- (1) Should the rehire eligible decline the bonafide full-time Civil Service position, the eligible shall be removed from the rehire list. A former employee remains on as Number One eligible regardless of the state of the open candidate list.

RULE XIV RECORDS AND REPORTS

Section 1. Personnel Files. The Secretary Examiner shall maintain a service or personnel file for each employee in the classified service, showing name, title or position held, the division within the employing department to which assigned, the salary, changes in employment status, leaves, and all other information that may be considered pertinent to such employee's fitness for continued employment or promotion. Access to these records shall be restricted to the appointing authority, department head, members of the Civil Service Commission and to the subject employee.

Section 2. Access to Public Records. The Secretary/Examiner shall have access to all departmental and institutional public documents and records, the examination of which will aid him in the discharge of his duties.

Section 3. Records Open to the Public. The minutes of all Civil Service Commission meetings shall be open to the public during office hours of the City Hall and may be inspected upon application to the Secretary of the Commission in a manner reasonably prescribed to protect said public records from damage or disorganization and to prevent excessive interference with the essential function of the Civil Service Commission. The Secretary shall provide the fullest assistance to inquirers and requests for information, provided that the Secretary shall impose a reasonable charge to cover the cost of time and materials in providing copies of such records as are not exempt from public inspection.

Section 4. Materials and Records Exempt from Public Inspection. The following shall be exempt from public inspection and copying:

- (1) Personal information relating to the employees in the classified service to the extent that disclosure thereof would violate such employees' right to privacy.
- (2) Specific intelligence information and specific investigative files compiled by the Secretary/Examiner or provided by informants under a promise of non-disclosure or compiled by any law enforcement agency vested with responsibility to discipline members of the classified service, the non-disclosure of which is essential to effective law enforcement and for the protection of the employees' and officers' right to privacy.
- (3) Information revealing the identity of persons who file complaints with the investigative agency except as the complainant may authorize.
- (4) Test questions, scoring keys, and other examination data used to qualify candidates for employment or promotion.
- (5) Records which are relative to a controversy or litigation involving the City which would not be available to another party under the rules of pre-trial discovery for causes pending in the superior courts.

Section 5. Copying. Inspection or copying for any specific records, exempt under the provisions of the above section, may be permitted if the Superior Court in the county in which the record is maintained finds, after hearing with notice thereof to every person in interest and to the agency,

that the exemption of such records is unnecessary to protect any individual's right of privacy or any vital governmental function. If the Clerk or other person having custody of the records of the Commission shall refuse to allow inspection or copying of any record, he shall provide the inquirer with a statement of the specific exemption authorizing the withholding of the record, or part thereof, and a brief explanation of how the exemption applies to the record withheld.

Section 6. Destruction of Records. Personnel files and the minutes of the Civil Service Commission shall be kept permanently. All other records pertaining to personnel, including applications, correspondence, examinations, and reports may be destroyed after three years, in the manner provided by law.

Section 7. Reports. The appointing authority shall prepare a report to the Commission in writing and upon forms prescribed by the Commission of all employment and all changes whatsoever in the status of personnel in their respective departments, supplying the name of the appointee of employee, the title of his position, the date of commencement of service, and any change recommended or made therein and shall report from time to time as may be required by the Commission additional data covering the competitive service, including reports of employee performance and productivity, upon such forms or in such manner as may be approved by the Commission. Any performance report or rating shall be available for inspection by the employee concerned who may discuss it with the official making the report or rating and may file a statement in explanation of any adverse report or rating. This statement shall be appended to the report or rating and shall be made a part of the employee's record.

RULE XV
GRIEVANCE COMPLAINTS AND PROCEDURES

Section 1. Complaints. Any citizen or employee of a covered department may make and file a written complaint of lack of enforcement or non-compliance with the provisions of Chapter 2.42 of the Toppenish Municipal Code and the Rules of the Toppenish Civil Service Commission. The Secretary of the Commission shall take and file said complaint or petition. The complaint shall set forth in detail the facts constituting the alleged lack of enforcement or non-compliance, specify the time or times of occurrence and the department and names of officials accused thereof. Every complaint shall be signed by the complainant and contain the complainant's affidavit verifying the matters stated in said complaint to be true to the complainant's knowledge or belief.

A copy of the complaint or petition shall be served upon the head of the affected department and each official or employee accused of omission or misconduct in the enforcement of the provision of said chapters and rules.

Section 2. Investigation. The Civil Service Commission shall investigate and make report thereon, which may include an agreement or adjustment of the complaint by the affected department. If the report discloses probable cause for the complaint of lack of enforcement, which has not been remedied, the Commission shall thereupon fix a time for hearing on the complaint to be conducted as provided in Rule IV, Section 2, "Hearings". At the time of hearing before the Commission or the hearing examiner appointed by the Commission, the complaint shall be examined through testimony and statements of the complainant and witnesses in support thereof and by testimony or statement presented by those accused and witnesses in support of their defense or explanation, and said accused official shall have full opportunity to be heard in defense or explanation of the circumstances surrounding the charges. Within ten days of the conclusion of the hearing the Commission shall make its report on such investigation, including findings and recommendations, and serve a certified copy thereof on the City Manager and the head of the department affected thereby, and shall file said findings and recommendation with the records of the Commission.

**RULE XVI
AMENDMENTS AND REPEAL**

Section 1. Amendment Procedure. After adoption these Rules may be amended by submission and reading of the proposed amendments at any regular meeting of the Toppenish Civil Service Commission. Public Notice of the proposal shall be given and a note thereon shall be taken at the next regular meeting. If approved by at least two members of the Commission, the amendment shall be adopted and shall be in immediate effect.

Section 2. Repeal. All prior rules inconsistent with the rules hereby adopted, are hereby repealed.

ADOPTED by the Civil Service Commission of the City of Toppenish, Washington, at a meeting thereof this 15th day of November 2019.



John Cerna, Chairman



Rosa M. Botello, Secretary/Examiner

Originally adopted August 8, 1984

Amended:

10/31/2007

02/05/2008

08/05/2009

07/08/2014

03/16/2016

05/08/2018

11/15/2019