



**ORTLING CIVIL SERVICE COMMISSION
SPECIAL MEETING AGENDA
September 19, 2017, 6:30pm.
City Hall, 110 Train Street SE
Jane Montgomery, Secretary**

COMMISSIONERS

Mike Dannat

Greg Hogan

David Inge

Lonny Meadows

Howie Robson

1. Call Meeting To Order

2. Pledge of Allegiance

3. Commissioner Roll Call

4. Proposed Rule Changes

• *Chair Meadows*

2.1

2.5

5.4.2 & 5.4.3

6.2 & 6.2.1 6.2.2 6.2.3, & 6.4 & 6.5 & 6.6 & 6.7 & 6.8., 6.8.1, 6.8.2, 6.8.3

7.3.3

8A.3 & 8.A.4 & 8.A.5 & 8A6 & 8.A.7, 8A.8, 8A.8, 8A.9 & 8A9.1, 8A.9.2

8A.9.3

8A.10, 8A10.a, 8A10.b, 8A12

13A &13L

And Appendices A-G

Motion: Move To approve rule changes as presented.

5. Adjourn

Next Civil Service Commission Meeting: To be Determined.

CITY OF ORTING
CIVIL SERVICE COMMISSION
RULES AND REGULATIONS
Last Updated 9/115/2017

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RULE 1. GENERAL PROVISIONS

1.1 **AUTHORITY AND APPLICATION.** These rules are promulgated pursuant to the authority granted by Chapter 41.12 RCW, re: Civil Service for Police, and the City of Orting ordinances. These rules are applicable to all positions and all employees covered by the City's Civil Service System and to all proceedings before the Civil Service Commission. No employee or interested person should read or construe these rules to support or create a property interest of any sort.

1.2 **SCOPE AND PURPOSE.**

A. These rules govern the continuing administration of the Civil Service System of the City and the terms and conditions of civil service employment in the City. The purpose of these rules is to assure that the Civil Service System in the City is administered in accordance with RCW Chapter 41.12 and ordinances of the City, and that all proceedings before the Commission are conducted in an orderly, fair and timely manner.

B. The purpose of a Civil Service created pursuant to state law is to establish a system to:

1. Provide for promotion on the basis of merit,
2. Give police officers tenure, and
3. Provide for a civil service commission to administer the system, and to investigate by public hearings, removals, suspensions, demotions, and discharges by the appointing power to determine whether such action was or was not made for political or religious reasons and whether it was or was not made in good faith for cause.

C. It is intended to protect the honest and efficient public employee from adverse discriminatory action, whether from political or other improper motive, and thus to secure for the people the services of honest, efficient and experienced public employees. At the same time it is intended that the administrative officers shall have ample authority to correct where possible, and to remove when necessary, dishonest or inefficient employees without placing upon the administrators an impractical or unfair burden in the discharge of such duties.

D. The objective and intent of these Rules is to establish personnel policies and procedures that will ensure to the people of Orting the maximum in honest and efficient public service by attracting to and retaining in the City's classified service the most qualified and highest motivated employees available.

1.3 **PRESUMPTION OF VALIDITY.** The Civil Service System implemented by these rules substantially accomplishes the purpose of chapters and 41.12 RCW. Variation from state models are based on local conditions and are intended to maintain the purposes of civil service systems: merit selection, tenure, and an independent civil service commission. These rules are presumed to be valid and shall be upheld unless in direct conflict with the purpose of Chapters 41.08 and 41.12 RCW.

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

1.5 COLLECTIVE BARGAINING AGREEMENT. In the event of conflict between these rules and collective bargaining agreement under Chapter 41.56 RCW, the provisions of the collective bargaining agreement shall prevail.

1.6 INTERPRETATION. The Commission has the power and authority to interpret its Rules.

RULE 2. ADMINISTRATION AND OPERATIONS.

2.1 COMMISSION, MEETINGS, QUORUM. The Commission has five (5) members.

A. In the necessary conduct of its work, the Commission shall hold a regular meeting on the fourth ~~Wednesday~~ Monday of every month at January, April, July and October at 6:30 p.m. at the Public Safety Building in the Public Safety Building meeting room, or on a date and at a location otherwise designated by the Chair and noticed in accordance with the Open Public Meetings Act (Chapter 42.30 RCW, as amended), ~~or such other location provided on any notice issued by the Secretary~~, unless there is no pending business requiring Commission action.

B. A special meeting may be ordered at any time by the Chair or at the direction of any Commissioner, and ~~N~~notice of special meetings will be provided as required by the Open Public Meetings Act (Chapter 42.30 RCW, as amended).

C. The Commission will conduct hearings and provide notice of hearings as required by these rules.

D. The presence of three (3) members of the Commission constitutes a quorum. No action of the Commission is effective unless three (3) members concur therein; provided, however, in hearings of appeals on employee discipline or discharge, a majority of a quorum hearing the matter (e.g., 2 of 3 commissioners) shall be sufficient for ruling.

E. All Commission meetings or hearings, regular or as required, are open and public, but the Commission may meet in executive session as authorized by the Open Public Meeting Act (Chapter 42.30 RCW, as amended).

2.2 CHAIR--VICE CHAIR. At the first regular meeting in January of each year, the Commission will elect one of its members to serve as Chair and another member to serve as Vice-Chair. The Chair and Vice-Chair will serve for a term of one (1) year, unless replaced by a majority vote of all Commissioners. Should a Chair or Vice-Chair resign or be removed from the position before the expiration of his/her term, the Commission, upon appointment of a new member, will elect a new Chair and/ or Vice-Chair.

2.3 RULES OF ORDER. Robert's Rules of Order is the final authority on all questions of procedure and parliamentary law not otherwise provided by these rules. But with the concurrence of three (3) commissioners, such rules may be waived or modified. During the conduct of any

appeal hearing, the Commission will rely on applicable rules of evidence for Washington Courts for guidance, subject to waiver or modification by three (3) commissioners.

2.4 COMMISSIONERS--CHALLENGE. Any challenge to a commissioner's sitting at a hearing must be made by an interested party's submitting a written affidavit to the Civil Service Secretary/Chief Examiner at least ten (10) days before the hearing commences or as soon as possible after the party learns of the alleged interest, prejudice or close relationship that is the basis of the challenge. The Commission will review the affidavit and vote on the challenge before proceeding with the hearing. Upon the Commission's finding of cause for disqualification, the challenged commissioner will take no part in the hearing. Failure to timely raise a challenge constitutes a waiver of the challenge by the party unless, in the exercise of reasonable diligence, a basis for challenge is unknown to a party before the hearing commences.

2.5 MINUTES. The secretary shall attend all meetings, record votes taken and how the Commissioners voted, and shall prepare the minutes and present them to the Commission for review, edits, and approval at the next regular meeting. The minutes or a true copy thereof shall be open to public inspection.

2.6 REPORTS-APPLICANTS, ELIGIBLES, EMPLOYEES.

2.6.1 Each applicant, eligible and employee will keep the Commission informed, by written notice to the Secretary, of his/her current address and telephone number and will report any change of name through marriage or otherwise.

2.6.2 Each eligible applicant will keep the Secretary informed, in writing, regarding his/her availability and any refusal to accept an appointment or promotion and the reasons therefore.

2.7 REPORTS--APPOINTING AUTHORITY. An Appointing Authority will report to the Secretary in such detail and on such forms as the Secretary may prescribe:

2.7.1 Every appointment, transfer, promotion, demotion, reduction, layoff, reinstatement, discharge, suspension, leave of absence, change of position within a class, or temporary assignment to out-of-class duties for a consecutive period longer than two weeks;

2.7.2 Every refusal or failure to accept appointment by a person whose name has been certified.

RULE 3. SECRETARY

3.1 DUTIES. The Commission Secretary shall keep the records for the commission; preserve all reports made to it; attend and record all meetings of the commission; assist, coordinate and/ or facilitate the administration of competitive hiring processes outlined in these Rules; approve the expenditure of funds appropriated for Commission operations; superintend and keep appropriate hiring records; and perform all lawful and necessary duties delegated by the Commission and all functions essential to the effective administration of the civil service system.

3.2 APPOINTMENT, TERM, ACCOUNT ABILITY. The Secretary shall be appointed by the Commission from among persons already employed by the City of Orting. The Secretary shall serve indefinitely at the pleasure of the Commission, provided that the Secretary may be subject

to suspension, reduction, or discharge as relates to his/her duties for the Commission in the same manner and subject to the same limitations as are provided in the case of members of the classified service.

RULE 4. CLASSIFICATION OF POSITIONS.

4.1 **PROCEDURE AND EFFECT.** The Appointing Authority shall classify all positions in the City's Civil Service System, known as the Classified Service. The classification plan so developed shall be transmitted to the Commission, and a current copy shall be maintained by the Secretary. Additional classes may be established and existing classes may be divided, combined, or abolished in the same manner as originally adopted. No reclassification of an existing class to a class having either a greater or lower maximum salary range shall be effective unless recommended by the Appointing Authority and approved by the Commission. Reclassification shall not be used for the purpose of avoiding demotions or promotions.

a. Responsibilities of the Appointing Authority. The appointing authority shall report any and all organizational changes, which may change any part of the classification plan, to the Secretary. However, neither this responsibility, nor anything else in these rules, shall restrict the ability of the appointing authority to direct its employees or limit its ability to assign work to deal with emergency situations.

b. Responsibilities of the Secretary. If directed by the Commission, the Secretary will conduct position classification studies of individual positions or groups of positions as necessary. The Secretary will report to the Commission any changes in the classification plan and the results of any studies.

c. Responsibilities of the Commission. The establishment of a new classification of more than sixty (60) calendar day's duration must be approved by the Commission. The request must be in writing accompanied by a statement of the duties, responsibilities and qualification requirements for the new or affected classification.

4.2 **CLASS OR CLASSIFICATION.** Class and Classification, when used as a noun, means a group of positions sufficiently similar with respect to duties and responsibilities so that the same title may reasonably be used for each, the same qualifications may be required, and the same salary range may be applied with equity.

4.3 **CLASSIFIED SERVICE.** Classified Service means all positions in the City service that are subject to the provisions of these rules as defined by state law and applicable City ordinances, including all full-time paid members of the Police Department except the Police Chief.

RULE 5. APPLICATION PROCEDURES AND APPLICANTS

5.1. **ANNOUNCEMENT OF VACANCY.** Whenever there is a need, the Civil Service Secretary or his/her designee shall invite, by giving public notice, qualified persons to apply for employment and for admission to the examination scheduled to create a Register. Public announcement of the examinations shall specify:

A. The title and salary range of the position;

- B. A brief outline of the duties of the position;
- C. The minimum qualifications required;
- D. The location where application may be made;
- E. The final date upon which applications will be accepted.

5.2 APPLICATION FORMAT. Applications must be made on forms supplied by the City or in such other format as may be approved by the City. All applications must be signed by the applicant.

5.3 APPLICATION REVIEW. The Civil Service Commission or designee shall ensure that each applicant has met the minimum standards for employment. For further review (i.e., background investigation) the Civil Service Commission will forward the application to the Chief of Police, who shall file his findings with the Secretary.

5.4 MINIMUM STANDARDS. In order to identify a level of qualification, the Commission establishes the following as minimum standards. To be considered for examinations or screening, the applicant must:

- A. Be a citizen of the United States;
- B. Possess a valid driver's license;
- C. Have attained the age of twenty-one (21) years at the time of employment for a Police Department position.
- D. Possess a high school diploma or GED equivalent;
- E. Be in good health;
- F. Possess good moral character;
- G. If the applicant is a relative of an elected City Official, the Mayor, a member of the City Council, then the official will excuse himself or herself from the hiring or promotion process.

5.4.1 MINIMUM STANDARDS FOR "ENTRY LEVEL POLICE OFFICER CANDIDATES": In addition to the above 5.4.A - G, Entry Level Police Officer candidates must attend or have attended Police Academy, and must obtain commission status prior to performing duties of a Police Officer. Candidates must qualify under the Washington Criminal Justice Training Commission's standards for attendance at commission-sponsored schools.

5.4.2 MINIMUM STANDARDS FOR POLICE "ACADEMY GRADUATE CANDIDATES" (previously called "Police Special Entry"). In addition to the above 5.4.A - G, academy graduate candidates must have successfully completed the Washington State Criminal Justice Training

Academy (WSCJT) within the past two (2) years and hold a current and valid certification through the Washington State Criminal Justice Commission as of the date of their employment.

5.4.3 MINIMUM STANDARDS FOR POLICE "LATERAL ENTRY" CANDIDATES. In addition to the above 5.4.A - G, ~~Lateral Police Officer candidates may be screened in accordance with Appendix A for Lateral Entry Police Officers, which is attached to these Rules and incorporated by reference.~~ Lateral candidates ~~must have worked in the law enforcement field within the last five year period, shall have~~ successfully completed probationary period review with another law enforcement agency, and ~~shall not have been out of service for a period of more than one year prior to application for employment with the City of Orting. been employed on a full-time basis as an independent officer for a period of time exceeding twelve (12) consecutive months, calculated from the day of appointment with the City of Orting.~~ Lateral candidates must have successfully completed the Washington State Criminal Justice Training Commission (CJTC) Basic Academy or another state's recognized (by CJTC) academy, or have successfully completed a Federal Law Enforcement Academy (those recognized by the CJTC), or have successfully completed the Academy with the Bureau of Indian Affairs. ~~Again, all lateral candidates must have successfully passed their required probationary period with another law enforcement agency.~~

If hired, Lateral Entry candidates may be required to attend the Washington State Criminal Justice Training Commission Basic Academy if the applicant has not previously attended, or sufficient time has lapsed since completion. If the applicant has completed the Washington State Criminal Justice Training Commission Basic Academy and there is a lapse in service, the applicant may be eligible to attend the Equivalency Academy in lieu of attending the Basic Academy again. Such determination will be made by the Police Chief in accordance with Criminal Justice Training Commission rules and guidelines. The Chief of Police may seek a CJTC waiver if the applicant is deemed to qualify for police service.

5.5 NON-ACCEPTANCE OF APPLICANT. After acceptance, the Civil Service Commission may reject an application or, after examination, may disqualify a successful candidate. This action may be taken whenever an applicant or eligible is found to lack any of the minimum standards established for the class of position. Additional causes for rejection and/ or disqualification are as stated in these Rules.

5.6. EFFECT OF CONTINUOUS TESTING SERVICE CONTRACT. Provisions of these Rules regarding advertising, notices, applications, administering and reviewing written or physical tests for an examination process and the like need not be exercised or observed if the Commission has elected to participate in a continuous testing program through a contract with a qualified firm, as approved by the City.

RULE 6. EXAMINATIONS AND SCREENING.

6.1 SCOPE. All examinations (also known as screening methods) shall be practical and shall consist only of subjects that will fairly determine the capacity of persons examined to perform the duties of the position to which an appointment is to be made.

6.2 METHODS TO SCREEN CANDIDATES FOR EMPLOYMENT. The qualifications and fitness of candidates shall be determined either individually or in a group, by ~~two or more of the~~ following methods:

6.2.1 “ENTRY LEVEL POLICE OFFICER CANDIDATES.” Entry Level Police Officer Candidates shall be screened using the following methods:

- A. Written test;
- B. Physical tests of strength, stamina, and agility or dexterity;
- C. Oral ~~tests~~interview, which will include but not be limited to evaluation of education, training, experience, qualifications, knowledge and ability;
- ~~C. Physical tests of strength, stamina, and agility or dexterity;~~
- D. Psychological tests or analysis conducted under a Washington State licensed Psychologist.
- E. Medical screening, performed by a Washington State licensed Medical Professional.
- EF. Polygraph tests administered by a law enforcement agency or an individual who is a member of either the Northwest Polygraph Examiners Association or the American Polygraph Association.

Entry level police officer candidates will be screened in accordance with Appendix A, Police Patrol Officer - Entry Level, which is attached to these Rules and incorporated by reference.

6.2.2 “ACADEMY GRADUATE CANDIDATES.” Academy graduate candidates will be individually screened using the following methods:

- A. Oral interview, which will include but not be limited to evaluation of education, training, experience, qualifications, knowledge and ability;
- B. Physical tests of strength, stamina, and agility or dexterity;
- C. Psychological tests or analysis conducted under a Washington State licensed Psychologist.
- D. Medical screening, performed by a Washington State licensed Medical Professional.
- D. Polygraph tests administered by a law enforcement agency or an individual who is a member of either the Northwest Polygraph Examiners Association or the American Polygraph Association.

Academy graduate candidates will be screened in accordance with Appendix B for Academy Graduate Candidates (previously called: Police Special Entry”), which is attached to these Rules and incorporated by reference.

6.2.3 POLICE "LATERAL ENTRY" CANDIDATES. Lateral entry candidates will be individually screened using the following methods:

- A. Oral interview, which will include but not be limited to evaluation of education, training, experience, qualifications, knowledge and ability;
- B. Physical tests of strength, stamina, and agility or dexterity;
- C. Psychological tests or analysis conducted under a Washington State licensed Psychologist.
- D. Medical screening, performed by a Washington State licensed Medical Professional.
- E. Polygraph tests administered by a law enforcement agency or an individual who is a member of either the Northwest Polygraph Examiners Association or the American Polygraph Association.

Lateral entry candidates will be screened in accordance with Appendix C, which is attached to these Rules and incorporated by reference.

6.3 PREPARATION AND ADMINISTRATION. All examinations shall be prepared and administered by or under the supervision of the Civil Service Commission or designee. The Commission may, at their discretion, delegate the administration of examinations, or any portions thereof, to such qualified and unbiased persons as they deem advisable, including the secretary. The City of Orting may hire an independent agency/ service to administer any, or all, portion(s) of the requirements for application.

6.4 VETERAN'S PREFERENCE. Pursuant to RCW 41.04.010, the Civil Service Commission shall give a scoring criteria status in a competitive examination to all veterans as defined in RCW 41.04.007, by adding to the veteran's passing mark, grade or rating only, based upon a possible rating of one hundred points as perfect, a percentage in accordance with the following: ~~In all competitive examinations, unless otherwise provided in this section, to determine the qualifications of applicants for public offices, positions, or employment, either the state, and all of its political subdivisions and all municipal corporations, or private companies or agencies contracted with by the state to give the competitive examinations shall give a scoring criteria status to all veterans as defined in RCW 41.04.007, by adding to the passing mark, grade or rating only, based upon a possible rating of one hundred points as perfect a percentage in accordance with the following:~~

6.4.1 Ten percent to a veteran who served during a period of war or in an armed conflict as defined in RCW 41.04.005 and does not receive military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

6.4.2 Five percent to a veteran who did not serve during a period of war or in an armed conflict as defined in RCW 41.04.005 or is receiving military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

6.4.3 Five percent to a veteran who was called to active military service from employment with the state or any of its political subdivisions or municipal corporations. The percentage shall be added to promotional examinations until the first promotion only;

6.4.4 All veterans' scoring criteria may be claimed upon release from active military service or upon receipt of separation orders indicating an honorable discharge, issued by the respective military department.

6.5 RESERVE AND VOLUNTEER PREFERENCE. Applicants, who have served as a reserve or volunteer (with the City of Orting) for a minimum of twelve (12) months and have worked two hundred forty (240) hours in that year, shall receive a two percent (2%) scoring criteria for each twelve months of service with the City of Orting. The two percent (2%) scoring criteria will be added to a passing mark, grade, or rating of a competitive examinations, not to exceed ten percent (10%).

6.6 EDUCATION AND EXPERIENCE PREFERENCE.

A. Applicants who have obtained an advanced secondary degree shall receive additional points, to be added to a passing mark, grade or rating of a competitive examination, as follows: Associates of Arts or Sciences degree recipients shall receive an additional four (4) points; Bachelors of Arts or Sciences degree recipients shall receive an additional seven (7) points; and recipients of a Master's degree or higher shall receive an additional ten (10) points. Applicants shall only receive the points allocated to the highest degree received. Applicants shall be required to present proof of receipt of all claimed degrees from the granting institution(s).

B. Applicants for Academy Graduate and Lateral positions shall receive additional points, to be added to a passing mark, grade or rating of a competitive examination, based upon the number of years of experience as a law enforcement officer with a recognized agency. The additional points shall be identified on Appendices B and C hereto, adopted by reference herein.

C. Promotional candidates shall receive additional points, to be added to a passing mark, grade or rating of a competitive examination, based upon the number of years of experience as a law enforcement officer with the City of Orting Police Department. The additional points shall be identified on Appendix D hereto, adopted by reference herein.

D. Applicants for Academy Graduate and Lateral positions shall be entitled to additional points, to be added to a passing mark, grade or rating of a competitive examination, for any law enforcement related classes or training of at least one month duration. Applicants may not combine classes or trainings of less than one month duration to obtain credit. The additional points shall be identified on Appendices B and C hereto, adopted by reference herein.

6.76 PASSING SCORE. A total passing score on an each examination shall be seventy percent (70%), not including Veterans, Reserve, and/ or Volunteer credits. Those credits will be added to

the an examination score of at least seventy percent ~~or more~~ by the Secretary of the Commission. The Secretary will query each candidate to determine if they want to claim Veterans or Reserve credits. Veterans must provide proof of service. Each ~~such~~ examination must be passed prior to proceeding to the next examination. The physical fitness examination will be pass/fail examination and shall not be included on the aggregate percentage.

6.78 PROMOTIONAL EXAMINATIONS. As the needs of the City and the police department may require, promotional examinations may be conducted on an unscheduled basis. All promotional examinations will be considered open to all qualified full-time members of the Orting Police Department. All applications for a promotional position must meet the following minimum requirements:

6.87.1 In order to be eligible to take the promotional examination for Sergeant, an applicant must have two (2) years full-time experience, and must have graduated from a Basic Law Enforcement School.

6.87.2 In order to be eligible to take the promotional examination for any position within the department higher than Sergeant, an applicant must have two (2) years full time experience and must have graduated from the Basic Law Enforcement School.

6.83 Promotional candidates shall be screened using the following methods:

A. Written test; and

B. Oral interview, which will include but not be limited to evaluation of education, training, experience, qualifications, knowledge and ability.

Promotional candidates shall be evaluated in accordance with Appendix D, which is attached to these Rules and incorporated by reference.

RULE 7. ELIGIBLE REGISTERS

7.1 ESTABLISHMENT OF REGISTERS. Registers shall be prepared by the Civil Service Commission or its designee which rank individuals qualified for certification to appointing authorities based upon the results of examinations and, if applicable, veterans, reserve and volunteer credit.

7.2 DURATION. Registers shall be valid for six months following the date of the formal establishment by the commission, but may be extended by the commission for additional six-month periods. These registers, if deemed by the commission to be exhausted, or no longer including valid applicants, may be terminated by the commission and a new register established prior to the six month expiration.

7.2.1 Eligibility Registers shall become effective upon the approval thereof by the Commission to the effect that the list was legally prepared and represents the relative rating of the names appearing thereon. Eligible Registers shall be of three kinds; an applicant register from which original appointments are made promotional registers from which promotional appointments are made, or reinstatement registers. Based on department needs, if recommended by the Appointing

Authority and approved by the Commission, original appointments to fill vacancies in the department can be made from either or any of the following: Certified Entry Level Register, Certified Lateral Entry Register, or Certified Academy Graduate Entry Register.

7.2.2 Eligibility Registers for original appointments shall be valid for six months and unless countered by the Civil Service Commission will automatically extend by six months and/ or may be extended by a majority vote of the Civil Service Commission for additional six month periods for a maximum of three (3) years

7.2.3 Promotional Registers shall be valid for six months and may be extended by majority vote of the Civil Service Commission for additional six month periods for a total of two (2) years for positions represented by a collective bargaining agreement and a maximum of three (3) years for positions not represented by a collective bargaining agreement. In the event of a negotiated agreement, all promotional Registers may be extended for a maximum of three (3) years.

7.3 REINSTATEMENT REGISTER. Employees who are placed on reinstatement Registers due to layoff or reduction shall have their names remain effective on the reinstatement Registers as follows:

7.3.1 Employees who have successfully completed the probationary period for a rank shall be maintained on the reinstatement Register for an unlimited period of time; provided, however, that their names may be removed from the Reinstatement Register for cause.

7.3.2 Employees who have not completed the probationary period for the rank shall be maintained on the reinstatement Register for the rank for a maximum of one (1) year following the effective date of the reduction or layoff; provided, however, that their names may be removed from the reinstatement Register for cause. This register may be extended by the Commission. After the maximum three-year period, their names shall be automatically removed from the reinstatement Register.

7.3.3 Employees who have resigned while in good standing, who wish to return to employment with the City of Orting Police Department within the period of one year from the date of leaving employment, may be accepted back at the same rate of pay and seniority. Rank would be dependent on an open position. Acceptance to return to employment will be at the discretion of the Chief of Police. Consideration for return to employment is dependent on an open position. A returning employee may not bump another officer.

7.4 NEW REGISTERS TERMINATE EXISTING REGISTERS FOR THE SAME CLASS. Any eligibility Register shall be terminated automatically upon promulgation of an eligibility Register from a new examination for the class.

7.5 REMOVAL OF NAMES FROM REGISTERS. The name of any person appearing on a Register may be removed by the Civil Service Commission or designee if the candidate fails to respond to a notice of certification, if he/ she declines an appointment without reason satisfactory to the commission, or if he/ she cannot be located by postal authorities. In the case of such removal, the Civil Service Commission shall notify the candidate affected in writing at his/her 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 the promotional

employment Register who resign from the service shall be automatically dropped from the Register.

7.6 NOTICE OF ADDRESS CHANGE. Each individual on the Register shall be responsible for notifying the Civil Service Commission or designee of a change of address. Failure to do so may cause the removal of his/her name from the Register.

7.7 REVOCATION OF REGISTERS. An employment and promotional Register may be revoked by the Commission when plainly inadequate results have been obtained through the examination or screening process. The Commission may also cause revocation because of fraud, errors, or obviously inappropriate standards prescribed in connection with the examination. Upon a revocation of any of the above reasons, the Commission shall cause a new examination to be held which will result in the creation of an appropriate Register.

RULE 8. APPOINTMENTS.

8.1 APPOINTING AUTHORITY. The appointing authority shall be the Mayor (or his/her designee,) for the Chief of Police, and all other positions within the Police Department.

8.2 PROVISIONAL APPOINTMENT. A provisional appointment may only be made in the absence of an appropriate Register. In such a case, the appointing authority may select a person meeting the minimum qualifications for nomination to the Civil Service Commission. The Civil Service Commission or designee shall notify the person or persons appearing on the appropriate list indicating the nature of the position and its duration, to learn who may be willing to accept temporary assignment. In the event no person on the Register expresses a willingness to accept a temporary appointment, the appointing authority may exercise his/her prerogative to initiate provisional appointment.

8.3 TEMPORARY ASSIGNMENT. In making temporary appointments, the appointing authority shall make a request to the Civil Service Commission in the manner provided for in regular appointments, but shall indicate the time in which it is estimated that the position will terminate. The Civil Service Commission Designee shall notify the person or persons appearing on the appropriate register indicating the nature of the position and its duration to learn who may be willing to accept a temporary assignment. In the event no person on the Register expresses a willingness to accept a temporary appointment, the appointing authority may exercise his/her prerogative to initiate a provisional appointment.

8.4 LIMITS ON TEMPORARY APPOINTMENTS. No full time reserve or temporary appointment shall continue for a period exceeding a continuous six (6) months. No time spent as a full-time reserve or temporary appointee shall be credited to a probationary period, or be utilized for computing any privilege accruing under civil service law or the rules and regulations.

RULE 8A. HIRING PROCESS.

8A.1 CERTIFIED ELIGIBILITY REGISTERS. Whenever a vacancy exists, the Appointing Authority may request the names of the top five (5) candidates on any Commission-Certified Eligibility Register, and may make an appointment from such Certified Eligibility Register, consistent with the provisions of this rule. The Commission encourages the Appointing Authority

to work with the Secretary to ensure that sufficient Registers are maintained throughout the year, to avoid potential delays in filling vacancies.

8A.2 APPOINTMENTS MUST BE MADE FROM A CERTIFIED ELIGIBILITY REGISTER. If there is a current, Certified Eligibility Register, the appointing authority may appoint from such Certified Eligibility Register. If an appointment occurs, the Appointing Authority must notify the Secretary, who will inform the Civil Service of the selection. If there is not a current, sufficient, Certified Eligibility Register, the appointing authority shall request that the secretary prepare a new Register.

8A.3 REQUEST FOR REGISTER TO FILL POSITION. If the appointing authority requests one or more Certified Eligibility Register(s), such request should specify if the request is for an Entry-Level, Lateral, ~~Special-EntryAcademy Graduate~~, or Promotional Register or Registers.

8A.4 EXAM RESULTS USED TO GENERATE ENTRY-LEVEL ELIGIBILITY LIST. ~~For Entry-Level positions~~, Eligibility Lists and Preliminary Eligibility Registers are generated based on competitive written examination results, reported by the City's exam administrator, Public Safety Testing, Inc. The Civil Service Secretary shall be responsible for obtaining and verifying current lists of eligible candidates from Public Safety Testing for purposes of presenting a proposed Eligibility List to the Commission when requested. Eligibility Lists can be assembled to include Entry-level applicants who are subject to the same written examination process. The Secretary shall ask qualified applicants to provide necessary documentation to apply any Veteran's Preference, Reserve or Volunteer points to passing scores earned by qualified candidates, in a manner consistent with state law.

8A.5 ELIGIBILITY LIST FOR LATERAL AND ACADEMY GRADUATE POSITIONS. Lateral and Academy Graduate Position Eligibility Lists are generated based on applications received by the City by the date proscribed in the vacancy announcement. The Secretary shall ask qualified applicants to provide necessary documentation to apply any Veteran's Preference, Reserve or Volunteer points to passing scores earned by qualified candidates, in a manner consistent with state law.

8A.6 ELIGIBILITY LIST FOR PROMOTION. An Eligibility List of candidates for promotion shall be generated based on applications received by the City and the competitive written examination results. The Secretary shall ask qualified applicants to provide necessary documentation to apply any Veteran's Preference, Reserve or Volunteer points to passing scores earned by qualified candidates, in a manner consistent with state law.

8A.~~75~~ COMMISSION AUTHORITY. The Civil Service Commission holds authority to establish a process for, and approve, modify, or reject an Eligibility Register, and/ or to delegate authority for certifying such final eligibility register. Following compliance with these guidelines, the Secretary shall be empowered to issue a final, Certified Eligibility Register for any new position, as discussed below.

8A.~~86~~ ENTRY-LEVEL AND PROMOTION ELIGIBILITY LIST, CONTACTS AND FOLLOW-UP BY SECRETARY. ~~Following Commission approval of any Eligibility List and the following process to produce a final, Certified Eligibility Register for use by the appointing~~

~~authority, (The Civil Service Secretary will move forward and shall contact all applicants on the Eligibility List with a passing score on the written examination the top 15 applicants on the Eligibility List as follows: Based on local conditions, including the fact that employment applicants frequently apply for positions with several jurisdictions, and those with higher scores are frequently hired by another agency before an opening exists in Orting, the Civil Service Secretary contacts the top 15 (or all of the Eligibility List in the case of special entry or laterals which are usually much smaller in number) applicants on the Commission-approved Eligibility List the next business day and invites such individuals to complete a City employment application form, which shall be completed and returned to the Secretary as soon as possible, but no later than 10 (ten) days after such request.~~

8A.79 ORAL INTERVIEWS.

8A.9.1 ENTRY-LEVEL CANDIDATES. After City application forms are received from eligible candidates, or candidates drop off the Eligibility List because they fail to submit a City application form, or inform the Secretary that they are no longer interested in accepting appointment to serve as an Orting Police officer, the Secretary will set up oral interviews for the candidates; ~~provided, however, the Commission may vote to waive oral interviews for Lateral and Academy Graduate Candidate (previously called "Police Special Entry") candidates. The Secretary will seek to ensure that at least five (5) candidates are eligible and willing to interview. The Secretary will use professional judgment in selecting a reasonable number of candidates on the Eligibility List for interviews, recognizing that the desired outcome is a list of 5 qualified candidates for consideration by the hiring authority. The Secretary will go down the Eligibility List and take the candidates by order of score from highest to lowest on such List until at least 5 qualified candidates are scheduled and confirmed for interviews by the oral board. For lateral and special entry applicants, there may not be 5 candidates available for the oral interview. In such case, the secretary will schedule oral interviews with potentially less than 5 candidates.~~

8A.9.2 LATERAL AND ACADEMY GRADUATE CANDIDATES. The Secretary will set up oral interview for the candidates. In the event there are not five (5) candidates available for the oral interview, the Secretary will schedule oral interviews with potentially less than five (5) candidates.

8A.9.3 PROMOTION CANDIDATES. The Secretary will set up oral interview for the candidates. The Secretary will go down the Eligibility list and take the candidates by order of score from highest to lowest on such List until at least five (5) qualified candidates are scheduled and confirmed for interviews by the oral board. In the event there are not five (5) qualified candidates available for the oral interview, the Secretary will schedule oral interviews with potentially less than five (5) candidates.

8A.810 COMPOSITION OF ORAL INTERVIEWS. Until or unless modified by subsequent action of the Commission for a specific hiring process, the oral interview board will be made up of ~~the Police Clerk, one citizen volunteer, and two~~ three or four police officers, with at least one Orting police officer and preferably another law enforcement officer from another jurisdiction. The size of the oral interview board may depend, so long as all candidates for a particular vacancy are interviewed by the same board. Civil Service Commissioners are encouraged to attend as observers. The Civil Service Secretary, in consultation with the Police

Chief, the Mayor, and the Civil Service Chair, will appoint qualified persons to serve as the Oral Board, and will schedule interviews in an efficient fashion.

8A.9 SCORING ORAL INTERVIEWS. Candidates are given oral interviews and scored. Total possible points from the oral interviews are 100, and the interviews shall be scored in accordance with Appendix G, which is attached to these Rules and incorporated by reference. 70 is the passing score for the oral interview portion of the hiring process. The ~~score sheet/pointoral questions system~~ shall be as approved by the Commission. The average score provided by the Oral Board is added to the written test score for candidates who pass the oral interview process, for a total possible score of 200 ~~(plus any veterans, reserve/volunteer points already added).~~ Scoring sheets shall be collected and maintained by the Secretary. Note: Failure in one part of the examination process for the position (i.e. written, physical, and/or oral interview) shall be grounds for declaring the applicant as failing the entire examination.

8A.10 PRELIMINARY ELIGIBILITY REGISTER AND CERTIFIED ELIGIBILITY REGISTER. Following completion of the ~~O~~oral ~~B~~board interviews, the Commission Secretary shall verify final scoring totals and create the Preliminary Eligibility Register. ~~and The Secretary shall~~ notify each applicant of the results of the oral interview, his or her final earned rating, and their relative position on the Preliminary Eligibility Register. Within seven (7) calendar days after notice of his or her final score has been emailed to an email address provided by the applicant, any applicant may review his or her examination papers and have his or her score reviewed and corrected if an error is identified. The Secretary shall have discretion to correct clerical and calculation errors.

8A.10.a Should an applicant wish to challenge any substantive part of the oral interview process, he or she shall submit to the Secretary, within seven (7) days after notice of his or her final score has been emailed, authoritative written proof of the validity of his or her claim, which shall detail which portion of the oral interview process' scope, content, or practicality is challenged.

~~The~~8A.10.a - Civil Service Commission, may hold a ~~Possible~~-sSpecial ~~m~~Meeting (if a timely written protest is filed as permitted above) - to consider ~~A~~any substantive challenges ~~shall be considered by the Commission.~~ At a regular or special meeting called for such purpose, the Secretary shall reviews the process he or she undertook to ~~of~~ create the Preliminary Eligibility Register. The Commission addresses ~~shall address~~ any written protests, and thereafter votes to certify, modify or reject the Preliminary Eligibility Register. If the Commission is satisfied as to the validity of any challenges, it shall order an appropriate revision of the examination scores, a restructuring of the Eligibility Register, and the emailing of notices to candidates on the Eligibility Register indicating the action ordered and its effect on their individual standing. After the Commission resolves any written protest of the oral interview process as addressed above, the Secretary is given full authority and discretion to issue a Certified Eligibility Register of the top five (5) names of successful qualified applicants to the appointing authority, without need for convening another Commission meeting. Ideally, the Certified Eligibility Register should be up to five (5) candidates, but it can be less, or more, depending upon qualified applicants.

8A.10.b ~~Secretary authorized to issue Certified Eligibility Register~~—If no challenges/appeals are timely filed to any portion of the interview process or final results as calculated and reported by the Secretary, ~~and/or after the Commission resolves any written protest of the oral~~

~~interview process as addressed above,~~ then the Secretary is given full authority and discretion to issue a Certified Eligibility Register of the top five (5) names of successful applicants to the appointing authority, without need for convening another Commission meeting.

8A.11 DISCRETION TO HIRE, OR REQUEST A NEW REGISTER. The appointing authority shall have discretion to appoint/hire an applicant from any Certified Eligibility Register. If any register for a particular class of applicants includes less than 5 qualified applicants, the appointing authority has discretion to appoint using such register or to ask for another process to generate a new register.

8A.12 ADDITIONAL NAMES TO MAINTAIN 5 QUALIFIED APPLICANTS ON THE CERTIFIED ELIGIBILITY REGISTER. ~~When the Secretary determines that the applicants on the Certified Eligibility Register are no longer willing, available, or otherwise are no longer qualified for appointment, exhausting the current Certified Eligibility Register, the Civil Service Commission will be notified to begin the process to find and certify qualified applicants to fill the Certified Eligibility Register. Ideally, the Certified Eligibility Register should be up to five (5) candidates, but it can be less, or more, depending upon qualified applicants.~~

~~If the Secretary determines that any of the applicants on the Certified Eligibility Register are no longer willing, available, or otherwise qualified for appointment, or that the applicant did not/ does not respond, sufficient additional names shall be Certified and furnished by the Secretary to maintain 5 qualified applicants on the Certified Eligibility Register, drawing the highest remaining name(s) as ranked on the current Preliminary Eligibility Register, to complete/ maintain 5 names on the Certified Eligibility Register.~~

8A.13 BACKGROUND CHECK, FURTHER REVIEW BY APPOINTING AUTHORITY. In all circumstances, the Appointing Authority shall have discretion to conduct an appropriate background investigation and consider the experience, training, education, and other relevant criteria regarding the final, certified applicants appearing on the Certified Eligibility Register. The appointing authority has discretion to conduct supplemental interviews and meetings with certified eligible applicants before reaching a determination as to which, if any, of the top 5 applicants on the Certified Eligibility Register to hire.

8A.14 CONDITIONAL OFFER OF EMPLOYMENT. The appointed candidate is given a conditional offer of employment. The candidate receives a polygraph, a psychological examination, and a background check. If successful they become an employee, subject to successful completion of their probationary status.

8A.15 RECORDS The Secretary shall retain records generated as part of the hiring process.

RULE 9. PROBATIONARY PERIOD

9.1 PURPOSE. The probationary period is an integral part of the examination process. It shall be utilized as an opportunity to observe the employee's work, to provide special training, to assist the employee in adjustment to his/her new position, and as an aid in making the decision to reject any employee whose work performance or personal conduct is unsatisfactory.

9.2 DURATION, ENTRY LEVEL AND NEW APPOINTMENTS. Police Department employees shall have a twelve-month probation period following successful completion of Criminal Justice Training Commission Basic Academy and field training. At any time during the probation period the appointing authority may terminate an appointment if, during this period, upon observation or consideration of the performance of duty, he/ she is found unfit or unsatisfactory. Inability to attend/ complete the basic or equivalency academy will be considered grounds for termination. The appointing authority shall forthwith notify the Commission in writing of any such termination of employment. Such action by the appointing authority is not subject to appeal. The Civil Service Rules defer to union contract language for the length of any probationary period.

9.3 DURATION, FOR PROMOTIONAL APPOINTMENTS. At any time during the 12-month probationary period, the appointing authority may terminate a promotional appointment if, during the performance test period thus provided, upon observation or consideration of the performance duty, he/ she is found unfit or unsatisfactory. Such action by the appointing authority is not subject to appeal; however that the appointing authority shall forthwith notify the commission in writing of any such termination of a promotional appointment. The appointed employee shall have the right to revert to the classification from which he or she was promoted, unless they were discharged from employment in the police department for just cause. As provided in Rule 11.3, any regular employee (also known as "permanent employee") who is a member of the classified service may appeal their discharge from employment to the Commission.

9.4 OUTSIDE EMPLOYMENT. No permanent employee shall hold a job with an outside employer or be self-employed without first having secured written approval from the Police Chief/ from the appointing authority. No approval for outside employment shall be granted unless injuries or illnesses related to outside employment are covered by Worker's Compensation Act of the State of Washington or other comparable insurance. A certificate verifying insurance coverage will be filed with the commission.

9.5 ACTION NOT REQUIRED. If no action is taken by the appointing authority to terminate or reduce in rank a probationary employee during the probation period and the employee is deemed to have satisfactorily completed the probationary period and his/her appointment shall be made permanent.

9.6 REMOVAL FROM REGISTER. If any appointment is not made permanent because of dissatisfaction with the employee's performance during the probationary period and the employee is terminated or reduced in rank, he/ she shall no longer be on the Register for that position.

9.7 NO RIGHTS TO APPEAL. Probationary employees have no rights to appeal their separation from employment (for entry level and original appointments, including lateral hires) or termination of a promotional appointment to the Civil Service Commission. *See State Ex Rel. Swartout v. Civil Serv. Comm'n*, 25 Wn.App 174, 605 P.2d 796, *cert. denied*, 449 U.S. 992 (1980). The purpose of a probationary period is to allow the appointing official an opportunity to evaluate the competency of the probationer before his/her appointment is made permanent. This principle applies equally to novice police officers, promotional appointees, lateral hires, and those experienced police officers who voluntarily resign from the force but subsequently apply for reemployment. The civil service commission only holds authority to hear appeals from an

employee who has achieved "permanent status" (also called "regular employee" or "regular status") in their police department position, not employees who have not completed their probationary period for appointment to a particular classification. This preserves the general scheme of the civil service system with respect to probationary employees, whether entry level, original, lateral, or promotional, allowing the appointing authority to discharge the probationer (or cancel the promotional appointment) before the appointment is made permanent, provided that an employee removed from a promotional appointment shall have the right to revert to a lower position in his/her last held permanent classification, unless they were discharged from employment with the police department for just cause.

RULE 10. MAINTENANCE OF STANDARDS

10.1 PURPOSE. In order to promote a well-balanced, efficient and competent Police Department, it is expected that all personnel within the classified service shall maintain the standards of qualification they had to meet for initial employment.

10.2 MENTAL FITNESS. Each member of the department's classified service shall be ready to accept assignments of training which shall be designed to increase, or at a minimum, maintain his/her level of competency, efficiency, and attention to duty.

10.3 PHYSICAL FITNESS. Each member of the department's classified service shall be able to meet the physical fitness standards of that department upon entry.

10.4 FITNESS TO BE MAINTAINED. Any member of the department who fails to maintain an acceptable level of mental and physical fitness may be subject to discipline, including a possible reduction in rank, or dismissal from the department.

RULE 11. DISCIPLINE AND DISCHARGE.

11.1 GENERAL PROVISIONS. Any regular employee may be disciplined for just cause. For the purposes of these rules, "discipline" shall be defined as a suspension, demotion, or discharge.

11.2 JUST CAUSE. The tenure of everyone holding office, place, position, or employment as a member of the City's classified service, expressly excluding the chief of police, shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation or other special privileges or benefits by the appointing authority for Just Cause, which means and includes any of the following:

- A. Incompetence, inefficiency, or inattention to or dereliction of duty. This includes, but is not limited to, the failure or inability to adequately perform the duties or responsibilities of the position, rank or office of the employee;
- B. Insubordination, including but not limited to violation of any lawful and reasonable regulation, policy, rule, order or directive made or given by a superior officer;
- C. Dishonesty, use of illegal drugs, intemperance, immoral conduct, discourteous treatment of the public, discourteous treatment of a fellow employee, or any other

act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct himself/herself;

- D. Mental or physical unfitness for the position which the employee holds;
- E. Intoxication or use of intoxicating liquors, narcotics or any other habit forming drug, liquid, or preparation to such extent that the use thereof impairs the employee's performance, or 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 the Civil Service;
- F. Failure to obtain and/ or maintain any certification, commission, or license required by law or these rules as a condition of employment for the position held;
- G. Theft, including time-theft;
- H. Conviction of a felony, or of a misdemeanor involving moral turpitude;
- L. Any other cause, misconduct, act or failure to act which in the judgment of the appointing authority is grounds for or warrants discipline or discharge; and
- J. Any other cause, misconduct, act or failure to act which in the judgment of the Commissioners is grounds for or warrants discipline, or is sufficient to show the offender to be an unsuitable or unfit person to be employed in the public service.

11.3 **GROUND FOR DISCIPLINARY APPEALS.** Any regular employee who is a member of the classified service who is disciplined or discharged may appeal such action to the Commission. Consistent with Rule 11A.5, the basis of such appeal shall be that the challenged action was not in good faith for just cause. Employees serving a probationary period have no right to appeal the appointing authority's decision to cancel such appointment during their probationary period.

11.4 **PROCEDURE and TIME LIMIT FOR FILING APPEAL.** The following procedures must be followed for filing a disciplinary appeal:

- a. Notices of appeal must be in writing and filed in the Commission office;
- b. The notice of appeal must contain a brief description of the facts giving rise to the appeal, the date of the discipline, a concise statement of the reasons for the appeal, the desired remedy, the mailing and street address where service of process may be made upon the appealing employee and must be signed by the appealing employee;
- c. The notice must be filed within the time period as specified within the applicable collective bargaining agreement (CBA) of the action that is the subject of the appeal. If the filing period for appeals is not addressed in an applicable CBA, then any notice of appeal must be filed within ten (10) days of receiving written notice of the action that is the subject of the appeal.

d. Procedures outlined in Rule 11A shall be followed for appeals filed under this rule.

11.5 ELECTION OF REMEDIES. Employees who choose to appeal a disciplinary action or discharge through the grievance procedure provided under an applicable collective bargaining agreement shall not have recourse through the appeal process established by these rules.

RULE 11A. APPEALS

11A.1 INITIAL REVIEW OF NOTICE OF APPEAL. The Secretary shall review all notices of appeal to determine whether the employee has timely filed an appeal, whether the notice is complete as required under these rules and whether the action appealed is a final action. The Secretary may dismiss an appeal if it is not timely or the notice is not complete. If an action is not final, the Secretary may stay the appeal until the action is final. Any procedural decision of the Secretary shall be subject to review by the Commission.

11A.2 SPECIAL COUNSEL MAY BE APPOINTED. The Commission may appoint a qualified attorney to serve as Special Counsel and/ or Hearing Officer to assist the Commission with any appeal, who shall hold all powers and may perform the duties of the Secretary described in these Rules while serving the Commission in handling a pending appeal. Such Special Counsel/Hearing Officer shall have authority to make orders on preliminary matters, to conduct pre-hearing conferences with participants to address discovery or scheduling issues, and other matters to make the appeal process fair and efficient. Any preliminary orders shall be subject to review by the Commission, which shall be addressed as the appeal hearing opens, or at such other time as determined by the Commission.

11A.3 NOTICE OF HEARING. Notice of Hearing. Upon receipt of a notice of appeal, the Secretary shall forward a copy of the notice to other affected parties. The Secretary will then schedule a hearing at the earliest possible Commission meeting with not less than fourteen (14) calendar days' notice to each party.

11A.4 AUTHORITY OF SECRETARY, SPECIAL COUNSEL. The Commission's Secretary or Special Counsel/Hearing Officer shall have the authority to make and issue orders addressing preliminary matters, including without limitation, motions for continuance, protective orders, and other similar procedural issues commonly involved in a prehearing process for a quasi-judicial matter.

11A.4.1 The Secretary or Special Counsel may conduct prehearing settlement conferences in order to encourage resolution of contested matters.

11A.4.2 The Commission may authorize the Secretary to investigate any reports or appeals relating to the enforcement or application of the Civil Service Rules or those rules that do not involve a disciplinary proceeding.

11A.4.3 Upon request of any party at least seven (7) calendar days prior to an appeal hearing, the Secretary may issue a subpoena commanding the person to whom it is directed to attend, at a specified time and place, and give testimony or produce designated books, documents or things under the person's control. The party requesting the subpoena is responsible for having the

subpoena properly served as provided in the Washington Superior Court Civil Rules and for providing copies of subpoenas to the opposing party.

11A.5 HEARING PROCEDURE. An appeal hearing before the Commission shall be conducted as follows:

- a. Burden of Proof. In any appeal of a disciplinary or discharge decision, the Appointing Authority shall have the burden of proof to show by a preponderance of the evidence that the challenged action was in good faith for cause. In any other appeal properly brought before the Commission, the appellant shall have the burden of proof and the standard of review shall be a preponderance of the evidence; in other words, any challenged decision must be supported by a preponderance of the evidence.
- b. Any party to an appeal has the right to appear before the Commission with or without legal counsel.
- c. All competent and relevant evidence shall be admissible. In passing on admissibility of evidence, the Commission shall give consideration to, but shall not be bound to follow the rules of evidence governing civil proceedings in the superior courts of the State of Washington.
- d. Each party with legal standing will have an opportunity to present their arguments, call witnesses, provide testimony, introduce documentary and other tangible evidence, cross-examine witnesses and respond to questions of the Commission.
- e. Witnesses shall be examined orally, under oath or affirmation, and shall be subject to cross-examination by opposing parties and the Commission.
- f. The order and formality of the hearing shall be determined by the Commission.

11A.6 RECORD OF PROCEEDINGS. The Commission shall audiotape hearings and shall prepare written minutes of action taken. The Commission or a party to an appeal may retain a court reporter to record all or part of the appeal hearing at the expense of the party requesting the reporter. The Commission or any party to the appeal may obtain a transcript from the court reporter at its own expense.

11A.7 DISQUALIFICATION OF COMMISSIONERS. Any party to an appeal may request that a Commissioner be disqualified from sitting at the appeal hearing if there is a reasonable belief that the Commissioner would not be impartial in accord with the appearance of fairness act. A request for disqualification must be made prior to the commencement of the hearing, or, if the cause for disqualification is not known prior to hearing, as soon as the cause for disqualification becomes known. It is within the Commission's sole discretion to approve or deny such a request. Failure to make a timely request shall constitute a waiver of the right to make such a request. If, as a result of the disqualification, there is no longer a lawfully constituted quorum, the appeal hearing shall be set over until a quorum is available.

11A.8 DELIBERATIONS. Deliberations by the Commission shall be subject to Chapter 42.30 RCW. The Commission may deliberate in closed (executive) session when taking a disciplinary or other quasi-judicial case under advisement. No person other than the members of the Commission, the Secretary and legal counsel to the Commission may be present during the deliberations. No person shall attempt to convey any information or opinion to the Commission concerning any matter on appeal other than in open hearing.

11A.9 DECISION. In any appeal, the Commission shall issue a decision as soon as practicable. The decision shall be made by a majority vote of the Commission. The decision shall be in writing and shall include findings of fact, conclusions of law and an order. In any disciplinary appeal, the Commission's decision must determine whether the challenged action was or was not made for political or religious reasons and whether it was or was not made in good faith for cause; and The Commission shall notify each party, or counsel of record for each party, of the decision.

11A.10 REMEDIES. Consistent with applicable law, the Commission may issue such remedial orders as deemed appropriate.

11A.11 WAIVER. Upon stipulation of all parties to the proceeding, or upon a showing that the purposes of the rules or City ordinances would be better served, the Commission may waive any of the requirements outlined in this rule.

11A.12 APPEALING COMMISSION'S DECISION. The Employee or appointing authority may appeal the decision of the Commission to the Pierce County Superior Court. Such appeal shall be served on the Commission Secretary within thirty (30) days after the entry of the decision and shall be processed according to the provisions of RCW Chapter 41.12. All costs associated with preparing the record for judicial review shall be the responsibility of party appealing the decision.

RULE 12. RECORDS AND REPORTS

12.1 ROSTER. The Civil Service Commission shall have access to a roster for the classified service showing name, title of positions held, changes in employment status, leaves, and other information that may be considered pertinent.

12.2 ACCESS TO PUBLIC RECORDS. The Civil Service Commission shall have access to all departmental and institutional public documents and records, the examination of which will aid it in the discharge of its duties.

12.3 RECORDS OPEN TO THE PUBLIC. All Civil Service records shall be open to the public during office hours and may be inspected upon application to the Commission.

12.4 DESTRUCTION OF RECORDS. Roster and the minutes of the Civil Service Commission shall be permanently kept. All other records pertaining to personnel including applications, correspondence, examinations, and reports may be destroyed after two years.

12.5 CORRESPONDENCE. All correspondence to the Civil Service Commission shall be directed to the Secretary of the Civil Service Commission, PO Box 489, Orting, WA 98360.

RULE 13. DEFINITIONS.

For purposes of these Rules, and in the Commission's administration of the City's Civil Service System for Police, the following words and phrases shall have the meanings provided below, unless the context in which they are used clearly indicates otherwise.

13-A

ACADEMY GRADUATE CANDIDATE: An Academy Graduate candidates must have successfully completed the Washington State Criminal Justice Training Academy (WSCJT) within the past two (2) years and hold a current and valid certification through the Washington State Criminal Justice Commission as of the date of their employment. A candidate who graduated from the WSCJT within the past two (2) years and began, but did not complete, probationary period review with another agency prior to application to the City of Orting does not qualify as an Academy Graduate candidate.

APPOINTING POWER OR AUTHORITY: The Mayor of the City, or the Mayor's designee.

13-C

CITY: The City of Orting, Washington.

CLASSIFIED SERVICE: Classified Service means all positions in the City police service which are subject to the provisions of these rules as defined by state law and applicable City ordinances, including all full-time paid members of the Police Department except the Police Chief.

COMMISSION: The civil service commission herein created, and "commissioner" means any of the five (5) or more members of the commission.

COMPETITIVE EXAMINATION: Is and means the same term as "Written Score".

13-D

DERELICTION OF DUTY: The willful neglect to perform one's duty or duties.

DISCHARGE: The involuntary cessation of employment with the City for cause. The Commission prefers the term "discharge", but the terms discharge, separation, or termination shall mean the same thing as used in these Rules.

DISCIPLINARY ACTION: The discharge, suspension or reduction in rank of an employee within the Police Department.

DISCRIMINATION: A willfully unjust or harmful distinction in favor or treatment to perform one's duty or duties, based on race, age, sex, religion, creed, national origin, disability, sexual preference, or other classification the City may so identify by general ordinance.

DISGRACEFUL CONDUCT: Fraudulent, deceiving, or cheating behavior or untrustworthiness.

13-F

FULL TIME EMPLOYEE: A person on a regular monthly salary and who devotes all of his/her work time to police duty and whose work as a police officer constitutes his/her regular employment.

13-G

GOOD BEHAVIOR: Behavior that is orderly and lawful.

GOOD CAUSE: For purposes of these Rules, Good Cause is and means the same as the term "Just Cause".

13-I

IMMORAL CONDUCT: Any form of behavior contrary to good morals, or conduct, which is deemed corrupt, falsifier, flagrant, engaged in malfeasance, misfeasance, or shameless acts/ conduct.

INCOMPATIBILITY OF DUTY: Being incapable of existing or being exercised together.

INCOMPETENCY: Lack of ability, legal qualification, or fitness to discharge the required duty.

INEFFICIENCY: The quality of being incapable or indisposed to do the things required.

INSUBORDINATION: Refusal to obey/carryout an order that a superior officer is entitled to give and have obeyed, or a willful disregard of express or implied directions of the employer.

INTEMPERANCE: A lack of moderation or restraint in the use of intoxicants which disqualifies the person from properly attending to his or her work.

13-J

JUST CAUSE: As provided in Rule 11.2, Just Cause (or "Cause") means and includes any of the following:

- A. Incompetence, inefficiency, or inattention to or dereliction of duty. This includes, but is not limited to, the failure or inability to adequately perform the duties or responsibilities of the position, rank or office of the employee;
- B. Insubordination, including but not limited to violation of any lawful and reasonable regulation, policy, rule, order or directive made or given by a superior officer;

- C. Dishonesty, use of illegal drugs, intemperance, immoral conduct, discourteous treatment of the public, discourteous treatment of a fellow employee, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct himself/ herself;
- D. Mental or physical unfitness for the position which the employee holds;
- E. Intoxication or use of intoxicating liquors, narcotics or any other habit forming drug, liquid, or preparation to such extent that the use thereof impairs the employee's performance, or 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 the Civil Service;
- F. Failure to obtain and/ or maintain any certification, commission, or license required by law or these rules as a condition of employment for the position held;
- G. Theft, including time-theft;
- H. Conviction of a felony, or of a misdemeanor involving moral turpitude;
- I. Any other cause, misconduct, act or failure to act which in the judgment of the appointing authority is grounds for or warrants discipline or discharge; and
- J. Any other cause, misconduct, act or failure to act which in the judgment of the Commissioners is grounds for or warrants discipline, or is sufficient to show the offender to be an unsuitable or unfit person to be employed in the public service.

13-L

LATERAL: A Commissioned Police Officer with experience and certifications as defined in Rule 5.4.3. Lateral Police Officer candidates must meet the minimum standards applicable to all candidates for appointment as a police officer as set forth in Rule 5.4.A - G, and Lateral Police Officer candidates may be screened in accordance with Appendix A for Lateral Entry Police Officers, which is attached to these Rules and incorporated by reference. Lateral candidates must have worked in the law enforcement field within the last five year period, successfully completed probationary period review with another law enforcement agency, and ~~shall not have been out of service for a period of more than one year prior to application for employment with the City of Orting.been employed on a full-time basis as an independent officer for a period of time exceeding twelve (12) consecutive months, calculated from the day of appointment with the City of Orting.~~ Lateral candidates must have successfully completed the Washington State Criminal Justice Training Commission (CJTC) Basic Academy or another state's recognized (by CJTC) academy, or have successfully completed a Federal Law Enforcement Academy (those recognized by

the CJTC), or have successfully completed the Academy with the Bureau of Indian Affairs. ~~Again, all lateral candidates must have successfully passed their required probationary period with another law enforcement agency.~~

13-M

MALFEASANCE: The doing of an act, which is wholly wrongful and unlawful.

MISFEASANCE: The doing of a lawful act in an unlawful manner or the wrongful exercise of lawful authority.

13-P

PERMANENT EMPLOYEE: Permanent Employee means an employee who has attained permanent status. For purposes of these Rules, the term Permanent Employee means the same as Regular Employee.

PERMANENT STATUS: Permanent status means the status of an employee who has acquired rights to a hearing upon discipline or discharge by reason of the successful completion of his or her probationary period. For purposes of these Rules, the term Permanent Status means the same as Regular Status.

POLITICAL REASON: A reason of a strictly partisan and political nature arising from or caused by a person's partisan political beliefs or adherence to a political party.

PROBATION: The working examination period during which the employee is required to demonstrate his or her ability and capacity to perform the duties of the position to which they have been appointed.

PROMOTION: The movement of an employee from a position in one class to another class requiring greater qualifications and providing a higher maximum rate of pay.

PROVISIONAL APPOINTMENT: Limited appointments when there is no current register of eligible candidates.

13-Q

QUASI-JUDICIAL: A type of action taken and discretion exercised by the Civil Service Commission where it is obliged to investigate or ascertain facts and draw conclusions from them as the foundation for official actions. "Quasi-judicial" proceedings affect individual parties, like an individual employee who raises an appeal of a disciplinary decision that is subject to appeal before the Civil Service Commission. In contrast, "Legislative actions", such as Civil Service Commission deliberations and votes to amend rules or general hiring procedures, establish public policy and rules applicable to groups of people. Quasi-judicial hearings, unlike legislative hearings, involve the legal rights of specific parties, and the decisions made as a result of such hearings must be based upon and supported by the "record", i.e. sufficient evidence and/ or sworn testimony developed at the hearing. These Civil Service Rules include provisions designed to ensure that quasi-judicial appeals and

hearing procedures will include appropriate notice, opportunity for parties to be heard, and that Commissioners will be fair and impartial.

13-R

REDUCTION IN RANK: The movement of an employee from one class to another class having a lower maximum rate of pay.

REGISTER: The ranked list of eligible applicants after the examination process.

REGULAR EMPLOYEE: Regular employee means an employee who has attained regular status. For purposes of these Rules, the term Permanent Employee means the same as Regular Employee.

REGULAR STATUS: Regular status means the status of an employee who has acquired rights to a hearing upon discipline or discharge by reason of the successful completion of his or her probationary period. For purposes of these Rules, the term Permanent Status means the same as Regular Status.

RELATIVE: A relative shall be considered to be a father, mother, spouse, brother or sister (full, half or in-law), son or daughter (blood, foster, step, adopted or in-law), aunt, uncle, niece, nephew, or first cousin.

REGISTER: A rank ordered group of candidates for a civil service classification, created after a testing or screening process.

RELIGIOUS REASON: Reason arising from or caused by a person's religious beliefs or adherence to a particular religion or religious denomination.

13-S

SECRETARY: The chief administrative officer of the commission who serves as secretary and chief examiner.

SUSPENSION: A temporary removal from duty with or without pay of an employee for disciplinary purposes or for the purpose of investigation of accusations brought against an employee.

13-T

TEMPORARY APPOINTMENT: Limited appointment when there is a temporary vacancy, or other short term need.

13-W

WRITTEN SCORE: The final total score of a written test/ exam given to candidates approved by the Civil Service Commission.

RULE 14. AMENDMENTS.

The Commission may amend these rules or adopt new rules by majority vote of the Commission at any regular or special meeting of the Commission. Unless, upon emergency declared by all Commissioners present, amendment of these rules shall be first discussed in an open regular or special meeting prior to adoption. Upon declaration of emergency, a rule amendment may be adopted at the meeting at which the amendment is first proposed.