

City of Fife

Civil Service Commission Rules

Rule 1

DEFINITION OF TERMS

In addition to those definitions contained in this section, the definitions contained within Fife Municipal Code (FMC) 2.52.005, as now enacted or hereafter amended or recodified, are hereby adopted by reference, and those definitions shall be given the same force and effect as if set forth herein in full.

1) Certify.

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

2) Compensation.

Any allowance, fee, salary, or wage paid to an employee or officer in the classified service for performing the duties and responsibilities of his or her position or office.

3) Division.

Civil Service Division, comprised of the Civil Service Commission, the Civil Service Secretary, and any personnel assigned to the Civil Service Division, responsible for the administration of Civil Service activities within the City.

4) Employee.

Any person holding a position in the Civil Service System of the City.

a) Employee – Exempt.

Any employee in a position of employment which is not subject to Civil Service rules and regulations, and in which one serves at the discretion of the appointing authority.

b) Employee – Temporary.

Any employee appointed to fill an emergency, temporary or short-term need, or to fill a position for which no register is available.

5) Experience.

Experience as herein used shall mean experience as a regular employee, under Civil Service appointment, but shall include probationary service time.

6) FMC.

Fife Municipal Code.

7) Personal Pronoun.

Words importing the masculine gender may be extended to females also. (RCW 1.12.060)

8) Resignation.

A written request by an employee for separation from the City service.

Rule 2

THE CIVIL SERVICE COMMISSION

1) Chair – Vice Chair.

At the first regular meeting in January of each year, the Commission shall elect one of the Chair for a term of one year and another member to serve as Vice Chair for a term of one year. Should a chair and /or Vice Chair resign or be removed from the position prior to the expiration of his/her term, the Commission, upon appointment of a new member shall proceed to the election of a new Chair and/ or Vice Chair.

2) Commission – Meeting – Quorum.

In the necessary conduct of its work the commission shall meet on the second Tuesday of each month at 4:00 p.m., at Fife City Hall, unless there is no pending business requiring Commission action. Notice of special meetings shall be provided as required by the Open Public Meetings Act. (Chapter 42.30 RCW) The Commission shall conduct hearings as required.

Notice of hearings shall be provided as required by the Commission's rules and the Open Public Meetings Act. Two members of the Commission shall constitute a quorum. Commissioners may attend meetings telephonically if necessary, provided there is appropriate equipment available for all in-person attendees to hear and communicate with the telephonic attendee. No action of the Commission shall be effective unless a majority of the members concur. All commission meetings or hearings, regular or as required, shall be open and public. Provided, however, that the Commission may meet in executive session as authorized by the Open Public Meetings Act (Chapter 42.30 RCW).

The members of the Commission shall be appointed in a manner to substantially accomplish the regulations contained in RCW 41.12.030. The terms of Office of the Commissioner shall be fixed for three (3) years. Commissioners shall have been a resident of the City of Fife or a business owner in the City of Fife for at least one (1) year at the time of appointment. Civil Service Commissioner positions are non-partisan. In the event a Commissioner is not appointed to fill a vacancy, the Commissioner whose term has expired shall continue to serve until a successor is appointed.

3) Record of Proceedings.

The Commission shall record its hearings. Either party may arrange for stenographic reporting of the proceedings at its own expense. Upon appeal of a Commission proceeding to the court, the Secretary/Chief Examiner shall arrange for transcription of all or a relevant part of the record at the direction and expense of the appealing party. The appealing party shall pay the transcription cost before a transcript will be released to the court.

4) Rules of Order.

Roberts Rules of Order shall be final authority on all questions of procedure and parliamentary law not otherwise provided by these rules.

5) Powers and Duties.

The Civil Service Commission under the authority of Washington State Statute and the Fife Municipal Code shall:

a) Create Rules.

Have the authority to make suitable rules governing matters as listed in FMC 2.52.160.

b) Amendment of Rules.

The Commission may amend these rules or adopt new rules by majority vote of the Commission at any regular or special meeting of the Commission which has been properly noticed. Unless upon emergency declared by all Commissioners present, amendment to 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.

c) Effective Date of Rules.

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

d) Copies of Rules.

A copy of these rules and a copy of all subsequent rules or amendments shall be posted on the City's website. Notice will be sent as soon as practicable after adoption of subsequent amendments to each City employee covered by Civil Service.

e) Effect of Rules.

The terms and conditions of Civil Service employment are governed by these rules and applicable statute and ordinance. No employee shall have a property of interest in or as a result of these rules. These rules, and rules of tenure in the Civil Service, and employees are subject to these rules and amendments thereto.

6) Other Governing Statutes and Agreements.

Have said powers and duties as are imposed by virtue of the FMC, State Statutes, and all applicable Collective Bargaining Agreements (CBAs). In case of conflict, applicable CBAs control.

Rule 3

THE SECRETARY

1) Duties.

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

- a)** Be the general manager and executive officer of the Civil Service Division, responsible to the Commission, and shall direct the activities of all personnel in the Civil Service Division, including their appointments and removals;
- b)** Delegate duties where necessary (including appointing a temporary Secretary designee) and supervise and direct the work of all persons employed in said Division, including the preparation, conduct, and scoring of examinations, and maintenance of the classification plan;
- c)** Report to the Commission from time to time as directed concerning the details of the work of the Division.
- d)** Prepare budget for the Division, approve accounts, and administer generally the expenditure of funds appropriated for the operation of the Division.

- e) Recommend to the Commission which examinations shall be conducted and the subjects to be covered in each examination; supervise the administration of examinations, approve such experts, special examiners, and other person she may deem necessary; decide all questions relating to the eligibility of applicants, the admissibility of applicants to the examinations, extension of time and all questions arising during the course of an examination; prepare and submit a report prior to and after each examination to the Commission, together with a report on all appeals from rulings or appeals from any part of the examination; and,
- f) Perform all other functions necessary for the proper carrying out of these rules and the provisions of law relating to the Civil Service system, and such additional duties as may be assigned to him/her from time to time by the Commission.

Rule 4

HEARINGS AND INVESTIGATIONS

1) Hearings.

a) Exhaustion of Administrative Remedies.

The Secretary may, when not inconsistent with the terms of an applicable Collective Bargaining Agreement, direct the employees to exhaust available administrative procedures regarding a disciplinary matter, before hearing the matter.

If the employee exhausts the available administrative procedures and continues to believe that good cause has not been shown, the employee may within ten (10) days after the final step of the procedure, request the Secretary return the appeal to the Commission for hearing.

b) Authority of Secretary/Staff.

i) The Commission may authorize the Secretary or designee to investigate any reports or appeals related to the enforcement or application of the civil service or those rules which do not involve a disciplinary proceeding. Investigations shall be conducted externally by default. Upon request of the Secretary or designee, the Commission may permit an investigation to be conducted internally.

ii) The Secretary to the Commission, after receiving authorization from the Commission, shall have the authority to make orders on preliminary matters, including motions for discovery and to compel discovery, continuance, protective orders, and other similar matters. Such orders may be appealed to the Commission. The Secretary, after receiving authorization from the Commission, may also conduct prehearing settlement conferences in order to encourage resolution of contested matters, issue subpoenas, and note dispositions. The staff shall report the results of the investigation to the Commission in an open meeting. On the basis of such report, the Commission shall either dismiss the report or appeal as being without basis or set the matter for full hearing.

iii) As an aid to investigations authorized by the Commission, the Investigator may collect any documents that would be discoverable for purposes of hearing preparation and may take recorded testimony of any person who may have relevant knowledge. Testimony so taken shall be kept as part of the records of the Commission.

2) Appeals - Initial Review.

The Secretary shall review all appeals to determine whether the employee has timely filed an appeal and whether the action appealed from is a final action. Upon a determination that the appeal is not timely, the Secretary shall issue a written order of dismissal. In the case of an action that is not final, the appeal shall be stayed until such action becomes final. Such orders may be appealed to the Commission.

3) Independent Investigation.

The Commission may, when it appears in the best interest of the Civil Service system, retain the services of an investigator separate from the Secretary. Any person so retained will be paid from the funds of the Commission and shall report either directly to the Commission or to such other persons as the Commission may designate.

4) Appeals – Authority of the Commission.

The exercise of jurisdiction by the Commission over a matter does not preclude the party from withdrawing, modifying, or otherwise compromising the matter prior to the matter going to hearing. Upon resolution of a matter prior to hearing, any party may request the dismissal of the matter. A stipulation signed by both parties should be submitted to the Commission prior to such dismissal.

5) Service of Process – Papers.

a) The Division staff shall cause to be served all orders, notices, and other papers that the commission is required by these rules to serve. Every other paper shall be served by the party filing the notice, documents or paper.

b) All notices, documents, or papers served by either the Commission or a party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers shall be by personal service, by registered or certified mail, or by regular mail with written acknowledgement of such mailing attached to the papers so served. Written acknowledgement shall be by affidavit of the person who mailed the papers, or by certification of any attorney or the Secretary.

c) Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail (U.S. or intra-city), upon deposit in the mail properly stamped and addressed.

d) Papers required to be filed with the Commission shall be deemed filed upon actual receipt of the papers by the Division staff at the Commission office. All papers except the original appeal notice shall be served with the original and three copies. Briefs and memoranda must be filed with the Commission at least three (3) business days prior to any hearing involving matters discussed in said brief or memoranda. Documentary evidence is not required to be filed but rather, provided at the hearing.

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

6) Discovery.

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

7) Subpoenas.

- a) Every subpoena shall identify the Commission and the title of the proceedings, if any, and shall command the person to whom it is directed to attend, at a specific time and place, and give testimony or produce designated books, documents, or things under that person's control.
- b) Upon application of any party or his/her representative, the Secretary shall issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceedings. The party requesting the subpoenas is responsible for having said subpoenas properly served. Such requests for subpoenas shall be submitted to the Commission offices at least seven (7) business days prior to the hearing.
- c) Service of a subpoenas shall be made by serving a copy of the subpoena on the person named therein.
- d) The person serving the subpoena shall make proof of service by filing the subpoena at the Commission office; and if such service has not been acknowledged by the witness, the person serving the subpoenas shall make an affidavit of service. Failure to file proof of service does not affect the validity of service.
- e) Upon a motion promptly made by a party or by the person to whom the subpoena is directed, and upon notice to the party on whose behalf the subpoena was issued, the Commission may:
 - (1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or
 - (2) Condition denial of a motion to quash or modify upon just and reasonable conditions.

8) Burden of Proof.

- a) At any hearing on appeal from a demotion, suspension or termination, the disciplinary authority shall have the burden of showing that its action was in good faith for just cause. At any other hearing, the petitioner or appellant shall have the burden of proof by a preponderance of the evidence.

9) Counsel at Hearing.

- a) An appellant is entitled to counsel at hearing at his or her own expense. Counsel may include an attorney or a union representative, for example.

10) Evidence.

- a) Subject to other provisions of these rules, all competent and relevant evidence shall be admissible. In passing upon the admissibility of evidence, the Commission shall give

consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in the superior courts of the State of Washington.

- b) Witnesses in any hearing may be examined orally, under oath or affirmation, and shall be subject to cross-examination by opposing parties and the Commission.
 - c) When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The Commission may exclude inadmissible evidence and may order cumulative evidence discontinued in its discretion, either with or without objection. A party objecting to the introduction or exclusion of evidence shall state the grounds of such objection at the time such evidence is offered or excluded. No such objection shall be deemed waived by further participation in the hearing.
 - d) At any hearing before the Commission when documentary exhibits are to be offered into evidence, copies shall be furnished to the opposing party, to each Commission member and to the Secretary.
 - e) Parties are encouraged to stipulate to the admissibility of documentary exhibits. To further this end, parties shall make such stipulation no later than three (3) business days in advance of the hearing, barring unusual circumstances. The party of whom the request is made shall respond no later than one (1) business day prior to the hearing.
- 11) Deliberation.**
The Commission may deliberate in closed (executive) session when taking a disciplinary case under advisement. Deliberations by the Commission shall otherwise be subject to Chapter 42.30 RCW. No person other than the Secretary and legal counsel to the Commission shall be present during deliberation. No person shall attempt to convey any information or opinion to the Commission concerning any matter on appeal, other than in open hearing.
- 12) Remedies.**
The Commission may issue remedial orders as deemed appropriate.
- 13) Waiver.**
Upon stipulation of all parties to a proceeding, and upon a showing that the purpose of the rules or ordinances of the City would be better served, the Commission may waive the requirements of any of these rules.

RULE 5

PRE-DISCIPLINARY HEARING

- 1) Pre-disciplinary Hearing Standards/Notice of Discipline.**
- a) Any Notice of Discipline shall be provided in writing to the employee. The Notice shall include a description of the charge and an explanation of the evidence.
 - b) The employee may request a pre-disciplinary hearing before the Commission. Such a request must be made in writing, within two (2) business days of receiving the Notice of Discipline. Once a pre-disciplinary hearing has been properly requested, the employee shall be given an opportunity to respond to the charges, orally or in writing, at the employee's election, as to why the proposed action should not be taken.

- c) The employee may have legal counsel or union representation present as a witness at a pre-disciplinary hearing.
- d) The written explanation of the evidence for the charge shall be sufficient to apprise the employee of the basis for the proposed action. This rule, however, shall not be construed to limit the employer at a subsequent hearing from presenting a more detailed and complete case, including presentation of witnesses and documents not available at the presciplinary hearing.
- e) Should the applicable authority determine to discipline the employee, following the pre-disciplinary procedure, a final written Notice of Discipline shall be given to the employee. Such notice shall include the charges against the employee and a general statement of the evidence supporting the charges.
- f) The Commission shall not consider, on appeal, any basis for disciplinary action not previously presented to the employee.

RULE 6

APPLICATIONS

1) Time for Filing Applications.

- a) All applicants for examination shall be filed with the Secretary during office hours and within the time limit fixed in the official announcement of examination; provided, that upon written evidence of extenuating circumstances acceptable to the Secretary, late applications may be accepted. Applications received by mail in the office of the Commission must be postmarked on or before the closing date.
- b) The time for filing applications may be extended by the Secretary as the needs of service require; provided, that the examination shall then be re-advertised in the official newspaper of the City.

2) Amendment of Application.

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

3) Applications Not Returned.

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

RULE 7

EXAMINATION

1) Qualifying Grade.

- a) In all open examinations the minimum grade or standing for which eligibility may be earned is 70% unless otherwise established by the Commission.
- b) When scoring results in other than a whole number (i.e. 69.99), the score will be carried to two decimal places and will not be rounded up or down.

2) Identity of Examinees.

The identity of persons taking competitive written tests shall be concealed from the examiners by the use of an identification number which shall be used on all test papers. No paper shall bear the name of the applicant or any other identifying mark other than the assigned identification number. If possible to do so before any examiner sees the identifying mark, and if it can be done in such a manner as does not interfere with any answer marks, the test proctor, Secretary or designee may alter the test paper in the area of the identifying mark solely for the purpose of removing the identifying mark and nothing further. If not possible, the examination may be rejected and the candidate so notified.

3) Former Police Reserve Eligibility

Any City of Fife Police Reserve that is an active member and is in good standing is eligible for Preference Status. Any former City of Fife Police Reserve that left his or her reserve status to take a full time City of Fife employee positions is eligible for Preference Status relevant to their time served. The applicant must have been in good standing at the time of their departure from the reserve program for eligibility.

4) Promotional Examinations.

Vacancies in classes higher than patrol officers shall be filed on the basis of a civil service test by promotion from within the ranks of the Fife Police Department.

5) Managing Number of Oral Board Attendees.

Only the 16 highest scoring applicants achieving a minimum score of 70 will be invited to attend the oral board.

RULE 8

CERTIFICATIONS AND APPOINTMENTS

1) Deferment of Certification.

The Commission may grant deferment of certification of an eligible individual upon receipt from the eligible individual of a written request with satisfactory reason therefore. Such deferment will thereafter prevent certification of such eligible individual until the next vacancy occurring after the eligible individual has given written notice of his or her desire to be returned to the register, and such return as been approved by the Commission. The deferment will only pertain to the life of the eligibility roster upon which the eligible individual was certified on, and does not extend beyond its expiration.

RULE 9

TRANSFERS AND ASSUMED SERVICES HIRING

1) Transfer of Positions into Fife Police Department.

If a currently filled City of Fife position is transferred to the Fife Police Department from another City department and the position will be in the classified Civil Service once added to the Fife Police Department, the Commission may, upon motion, add the employee to the classified Civil Service without testing, and Civil Service seniority of the employee so added will then be based on the employee's original City of Fife hire date.

2) Eligibility Requirements for Assumed Services Hiring.

In the event the Fife police department by Interlocal agreement assumes any services for another jurisdiction's police department, and the Interlocal agreement states that a position will be eliminated in the other jurisdiction's department as a result of the transfer of service, and also requires the City to create and hire an additional position in the classified civil service in order to accommodate the additional workload, the following special requirements shall be a condition of eligibility for such position upon written request from the City Manager: (1) the applicant must meet all requirements for the position; (2) the applicant must meet the lateral hire eligibility requirements set forth in FMC 2.52.355 and the Civil Service testing requirements for a lateral hire, and (3) the applicant must have had his or her position with the other jurisdiction eliminated as a result of the City's assumption of services.

RULE 10

RECORDS AND REPORTS

1) Access to Public Records.

The secretary and chief examiner shall have access to all departmental and institutional documents and records, the examination of which will aid her/him in the discharge of his/her duties. All Division records are public records and are subject to request pursuant to the Washington State Public Records Act (RCW 42.56).

2) Records Open to the Public.

The minutes of all Civil Service Commission meetings shall be open to the public during office hours of City Hall and may be inspected or copied pursuant to the Washington State Public Records Act (RCW 42.56).

3) Destruction of Records.

The Civil Service Division shall maintain its records according to the Washington State Records Retention Guidelines.

ADOPTED THIS 13th day of October, 2016.