

City of Milton

Civil Service Rules

**as amended
October 14, 2019**

CITY OF MILTON
CIVIL SERVICE RULES
TABLE OF CONTENTS

Introduction, Model Civil Service Rules Modified	3
Introduction, Milton Civil Service Rules	4
Chapter 1 General Provisions	5
Chapter 2 Administration and Operations	6
Chapter 3 Secretary – Chief Examiner	9
Chapter 4 Definitions	11
Chapter 5 Rules Making	19
Chapter 6 Classification.....	20
Chapter 7 Application and Applicants	22
Chapter 8 Examinations	25
Chapter 9 Registers and Eligibility	30
Chapter 10 Certification of Appointment	35
Chapter 11 Probation.....	37
Chapter 12 Service Credit	38
Chapter 13 Transfer	40
Chapter 14 Layoff.....	41

Chapter 15	Leaves of Absence.....	43
Chapter 16	Resignation.....	43
Chapter 17	Discipline and Discharge.....	44
Chapter 18	Pre-disciplinary Hearing	46
Chapter 19	Hearings	47
Chapter 20	Retirement and Disability.....	53
Chapter 21	Miscellaneous	54

CIVIL SERVICE RULES

Model Rules as modified by the local Commission

INTRODUCTION

The development of Civil Service, in response to patronage hiring in government, has a long history in the United States. Military hero and President Andrew Jackson took full advantage of his position that “to the victor belongs the spoils.” However, Thomas Jefferson is as much responsible for institution of the spoils system as any American president. See Vaughn, *Principles of Civil Service Law* (1976); and Kaplan, *The Laws of Civil Service* (1958).

The movement for reform in federal employment services was highlighted by the assassination in 1881 of President James A. Garfield by a disgruntled Republican Party member, whose demand for a patronage appointment had been disregarded. See Kaplan at 10.

While the State of Washington may not be able to boast of such a colorful history in the development of its Civil Service, it nevertheless does have over 50 years of state involvement. Charter cities such as Seattle, Spokane and Tacoma have Civil Service systems predating the state enactment for City fire fighters and police, chapters 41.08 and 41.12 RCW (firefighters (1935) and police (1937)).

During the course of development of Civil Service systems throughout the state, Commissions have adopted rules for their operation. While rules are uniform in many respects, the local Government Personnel Institute frequently receives request from Commissions for assistance concerning specifics of rules. In an effort to provide a ready reference to local Commissions and their personnel, the Institute directed the preparation of a set of model Civil Service rules.

These model rules are not intended to be implemented in the place of existing Civil Service rules without careful consideration of existing rules, procedures, and local conditions. However, the author believes that the rules provide a comprehensive system for the administration of a local Civil Service system and may be adopted in total, if desired. A better approach would be to utilize these rules as a guide for development of a system that is most appropriate to a City or County. Though most systems throughout Washington are established for public safety personnel, the rules are intended to provide an administrative system covering employee classifications throughout a government structure.

The model rules are organized by chapter with each chapter followed by comments. Many comments incorporate references to legal authority. The local Government Personnel Institute intends to provide annual updates of this set of model rules, including updates on legal authority. However, local commissions should always consult with the City attorney,

county prosecutor, or other legal advisor concerning current case law and statutory amendments.

We hope that you will find this publication to be a useful source of reference on a regular basis. The author and the staff at the Local Government Personnel Institute will continue to be available to assist member jurisdictions with issues involving Civil Service.

LOCAL INTRODUCTION COMMENTS

The above introduction by Steve DiJulio, author of the model Civil Service rules, provides background information and notes on the intention that these rules be a guide that will be updated on an annual basis. This Commission has determined to utilize these rules to update, correct and refine the rules already in place in the City of Milton.

The following rules include adaptations made for local use by the Milton Civil Service Commission.

1. GENERAL PROVISIONS

1.01 AUTHORITY AND APPLICATION

These rules are promulgated pursuant to the authority granted by Chapter 41.14 RCW, Civil Service for City Police. These rules are applicable to proceedings before the Civil Service Commission and should be read in conjunction with the specific provisions of the RCW referenced chapter.

1.03 SCOPE AND PURPOSE

These rules govern the continuing administration of the Civil Service system of the City of Milton. The purpose of these rules is to assure that the Civil Service system in the City of Milton is administered in accordance with the City Code and ordinances of the City, and that all proceedings before the Commission are conducted in an orderly, fair and timely manner.

1.05 PRESUMPTION OF VALIDITY

The Civil Service system implemented by these rules substantially accomplishes the purpose of RCW 41.12. Variation from state models are based on local conditions and are intended to maintain the purposes of the Civil Service system: 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 purposes of RCW 41.12.

1.07 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.

2. ADMINISTRATION AND OPERATIONS

2.01 COMMISSION – MEETINGS – QUORUM

In the necessary conduct of its work, the Commission shall meet on the second Monday of each month, at 6:00 p.m., in the Milton Police Department, 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, as amended). The Commission shall conduct hearings as required. Notice of hearings shall be provided as required by these rules. Three members of the Commission shall constitute a quorum. No action of the Commission shall be effective unless three members concur therein. 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, as amended).

2.03 CHAIR – VICE CHAIR

At the first regular meeting in January of each year, the Commission shall elect one of its members as Chair 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.

2.05 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. However, with the concurrence of three commissioners, such rules may be waived or modified.

2.07 COMMISSIONERS – CHALLENGE

Any challenge to a Commissioner's sitting at a hearing shall be made by an interested party prior to the commencement of a hearing. The challenged Commissioner(s) shall review and rule on the challenge prior to proceeding with the hearing. Failure to timely raise a challenge shall constitute a waiver of the challenge by the party unless, in the exercise of reasonable diligence, a basis for challenge is unknown by a party prior to commencement of a hearing.

2.08 COMMISSIONERS – CHALLENGE – NECESSITY

If, as a result of disqualification(s) pursuant to Rule 2.07, there is no longer a lawfully constituted quorum available, then by reason of necessity, the disqualified Commissioner(s) shall return and proceed with the hearing.

2.09 OFFICE HOURS

The office address of the Civil Service Commission is 1000 Laurel Street, Milton, Washington 98354. The office hours of the Commission Secretary shall be arranged.

2.11 PUBLIC RECORDS

Public records of the Commission shall be available, upon request, for inspection and copying during the office hours of the Commission staff. No fee will be charged for inspection of public records. Inspection will be permitted during office hours in a space provided by the Commission staff, and under its supervision, and must be accomplished without excessive interference with the essential functions of the Commission. Copies will be made available at actual cost or as provided by City ordinance. These rules shall be printed for free public distribution.

2.13 RECORD OF PROCEEDINGS

The Commission shall keep a record of its proceedings. The record of the Commission shall not include a written verbatim report of proceedings unless ordered. The Commission may retain a court reporter to record all or part of a proceeding. In addition, a party to a proceeding, at his / her own expense, may have a court reporter record all or part of a proceeding. On appeal or review, costs of transcription may be recovered by the Commission, or a prevailing party, at the discretion of the reviewing court or the Commission. Upon appeal or review, transcription and certification of a record of proceedings shall be arranged by the Secretary.

2.15 REPORTS – APPLICANTS, ELIGIBLES, EMPLOYEES

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

2.15.02 Each eligible shall keep the Secretary informed, in writing, regarding availability and any refusal to accept appointment or promotion and the reasons therefor.

2.17 REPORTS - DEPARTMENT DIRECTORS

A Department Director shall immediately report to the Secretary in such detail and on such forms as the Secretary may prescribe:

- 2.17.01 Every appointment, transfer, promotion, demotion, reduction, layoff, reinstatement, suspension, leave of absence without pay, return to duty, assignment, change of position within a class or within an assignment title, change of title, change of compensation;
- 2.17.02 Every separation from the service with the reasons therefor;
- 2.17.03 Every refusal or failure to accept appointment by a person whose name has been certified.

3. SECRETARY – CHIEF EXAMINER

3.01 SECRETARY – CHIEF EXAMINER - APPOINTMENT

A Secretary – Chief Examiner (hereinafter “Secretary”), shall be appointed by the Commission.

3.05 SECRETARY - DISCIPLINE

The Secretary may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the classified services.

3.07 SECRETARY - AUTHORITY

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

- 3.07.01 Be the general manager and executive officer of the Civil Service Department, responsible to the Commission, and shall direct the activities of all personnel in the Civil Service Department, including their appointments and removals;
- 3.07.02 Delegate duties where necessary and supervise the work of all persons employed in the Department, including the preparation, conduct, and scoring of examinations, and maintenance of the classification plan;
- 3.07.03 Report to the Commission from time to time as directed concerning the details of the work of the Department;
- 3.07.04 Prepare the budget for the Department, approve accounts, and administer generally the expenditure of funds appropriated for the operation of the Department;
- 3.07.05 Classify all Civil Service positions in the classified services, maintain a schematic list of all such classes in the classification plan, and prepare and maintain specifications for each class;
- 3.07.06 Determine which examinations shall be conducted, the minimum qualifications of applicants, the subjects to be covered in each examination, methods of testing, and the relative weights to be given to the various parts of the examination; supervise the conduct of the examinations, appointing such experts, special examiners, and other persons he / 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 (note: see rule 8.01, "Ordering Examinations");

3.07.07 The Secretary, following approval by the Commission, may enter into contracts with one or more Subscription Testing Services. The Secretary shall verify that the Subscription Testing Service provides qualified testing resources that are content valid and job-related;

3.07.08 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.

3.09 REVIEW OF AND APPEAL FROM ACTIONS OR DECISIONS OF THE SECRETARY

3.09.01 The Commission, on its own motion, may review or modify any action or decision of the Secretary.

3.09.02 Any person adversely affected by any action or decision of the Secretary may request the Commission to revise or modify such action or decision. Such request shall be in writing setting forth with reasonable certainty the action objected to, the grounds supporting the request, and the relief sought, and must be made within ten days from the date of notice of such action unless established otherwise in these rules. The Commission shall thereupon, if in its opinion good cause is shown, conduct a hearing thereon.

4. DEFINITIONS

The following words and phrases shall have the meanings hereinafter described unless the context in which they are included clearly indicates otherwise.

4.01 ACTUAL SERVICE

Time in which a given employee has been engaged under Civil Service appointment in the performance of the duties of a position or positions and shall include absences with pay.

4.03 ALLOCATION

The locating or placing in the classified service of a position in the class appropriate to it on the basis of duties and responsibilities and required qualifications of such position.

4.05 APPLICANT

Anyone who has filed an application to take a Civil Service examination.

4.07 APPOINTING AUTHORITY

The person or persons authorized to hire, promote or discharge employees. (a person who is authorized to employ others on behalf of the City, which means the Chief of Police with respect to any Police Department position included in this system.)

4.09 APPOINTMENTS

4.09.01 APPOINTMENTS – REGULAR; The appointment of a certified eligible applicant.

4.09.03 APPOINTMENT – TEMPORARY: A limited appointment other than from an eligible register for the purpose of performing work belonging in the classified service. A reduction of a regular employee is not a temporary appointment. Temporary appointment includes emergency appointment.

4.11 ASSIGNMENT

An employee may be assigned to a position which carries additional salary and additional limited responsibilities and is within the scope of the specifications for the class from which assignment is made.

4.13 BREAK IN SERVICE

A separation from Civil Service status with a loss of accumulated service credit as occasioned by a “quit”, “resignation”, “discharge”, or “retirement”.

4.15 CANDIDATE

Any applicant who has completed, or is in the process of completing a Civil Service examination.

4.17 CERTIFICATION: (Certified Eligible List)

A list of names from an eligible register transmitted by the Civil Service Commission to an appointing authority from which such appointing authority may fill a vacancy.

4.19 CERTIFY

Verification 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.

4.21 CITY

The City of Milton.

4.23 CIVIL SERVICE EMPLOYEE

Any employee who has Civil Service status.

4.25 CIVIL SERVICE REGISTER

See Eligible Register

4.27 CLASS

A position or group of positions designated by the Commission as having similarity in duties and responsibilities, by reason of which the same examination may be used for each position in the group.

4.29 CLASS SERIES

Two or more classes which are similar as to line of work, but which differ as to degree of responsibility and difficulty and which have been arranged in a ladder of steps in a normal line of promotion, such as Police Officer, Police Sergeant, Police Lieutenant.

4.31 CLASS SPECIFICATION

A description of the essential characteristics of a class and the factors and conditions that separate it from other classes, written in terms of duties, responsibilities and qualifications.

4.33 COMMISSION

The Civil Service Commission. "Commissioner" means any one member of said Commission.

4.34 CONTINUOUS EXAM

A written examination and/or a standardized physical fitness/agility test conducted on a continuous or periodic basis.

4.35 CONTINUOUS SERVICE

Employment without interruption, except for absences on approved leave or absence to serve in the armed forces of the United States.

4.37 DEMOTION

Removal of an employee, for cause, from a higher to a lower class of employment or salary step within a class.

4.39 DEPARTMENT

Any department of the City subject to Civil Service as established by ordinance. The legal head of any such department is the Department Director or Department Director's designee.

4.41 DISCHARGE

Termination, separation, dismissal, or removal from the service for cause.

4.43 ELIGIBLE

Anyone qualified for a given class through examination and placed on the proper eligible register, also, “certified eligible.”

4.47 ELIGIBLE REGISTER

A register or list of successful examinees for a given class from which certification may be made to fill vacancies in such class, also, “Register of Eligibles”.

4.49 EMPLOYEE

Anyone holding a position in the Civil Service system of the City of Milton.

4.49.01 EMPLOYEE – REGULAR: Any employee who has been appointed from a certification and who has satisfactorily served the full probationary period.

4.49.03 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.

4.49.05 EMPLOYEE – EXEMPT: Any employee in a position of employment which is to subject to Civil Service rules and regulations, and in which one serves at the discretion of the appointing authority.

4.49.07 EMPLOYEE – PROBATIONARY: A person appointed from a certification who has not yet completed the specified trial period of employment.

Note: A regular employee is the only employee with rights under Rule 19.01.

4.51 EXAMINATION

The process of testing the fitness and qualifications of applicants for positions in a class.

a. EXAMINATION – OPEN OR ENTRANCE:

An examination open to any member of the public meeting the requirements as stated in the official bulletin announcing the examination.

b. EXAMINATION – PROMOTIONAL

An examination limited to employees meeting the requirements stated in the official bulletin announcing the examination.

4.53 EXAMINATION BULLETIN (or OFFICIAL BULLETIN)

An examination announcement containing basic information about the class of position, the requirements for filing, how to apply, and the other pertinent information. The examination announcement shall be posted in the Personnel Department / Commission Office and in other suitable locations.

4.55 FINAL EXAMINATION SCORE

Total of earned exam score plus additional veteran's preference or service credit points for which an applicant is eligible.

4.57 IN-HOUSE REGISTER

A list of the names of Civil Service employees, in the order of final examination rating, who have passed an examination for an entrance position or class.

4.59 LAYOFF

The interruption of service and pay of any regular or temporary employee because of lack of work or funds, except that the term shall also apply to the separation of temporary employees who have completed the stipulated period of employment.

4.61 OFFICIAL NEWSPAPER

The newspaper designated as official by the City, which in Milton is a choice of the Pierce County Herald or the Tacoma News Tribune.

4.63 POSITION

Any group of duties and responsibilities in the service of the city which one person is required to perform as full- or part-time employment, and which is included in the City budget.

- a. POSITION – REGULAR: A position included in the official annual budget that is neither specified as seasonal employment, not limited for a period of less than the budget year; also any such position established during a given budget year, unless the Department Director certifies to the Civil Service Commission that such position will not be continued in the succeeding year's budget.
- b. POSITION – PERMANENT PART-TIME: Employment in a permanent position for work on a basis of less than eight hours a day or less than forty hours a week, but on a regular schedule.

4.65 PROBATION OR PROBATIONARY

The status of an employee during a trial period following a permanent appointment from an eligible register. This trial period is part of the examination process and is a working test during which an employee is required to demonstrate, by actual performance of the duties, fitness for the position to which certified and appointed.

4.67 PROMOTION

The appointment of an employee to a higher class or to a position of higher skill or responsibility level. Any change in employment other than by a temporary or provisional appointment (1) from a lower class to any position in any higher class in the same promotional series of classes as determined by the Commission, or (2) to a position which although an entrance position is of higher skill and/or responsibility, shall constitute a promotion.

4.69 QUIT

Any voluntary separation of any employee from the City service without acceptance of a resignation by the appointing authority.

4.71 REALLOCATION

The allocation of a position to a different class in the classification plan.

4.73 REDUCTION

The removal of an employee from a higher class to a lower class of employment for reasons other than cause.

4.75 REGISTER

A list of candidates for employment who have passed an employment examination, whose names may be chosen and certified by the Commission for submission to the appointing authority for consideration for employment. See 4.47, "Eligible Register."

4.77 REINSTATEMENT

Reappointment of a regular employee to a position in a class in which the employee was a regular employee.

4.79 REINSTATEMENT REGISTER

A list of names of persons who were regular employees in a given class and who were laid off and are entitled to reinstatement in such class. A reinstatement register may also include former employees on disability retirement who are capable mentally and physically for reinstatement.

4.81 RESIGNATION

A written request by an employee for separation from a class or from the City service. To be valid, such request must show written approval of the appointing authority.

4.83 RETENTION CREDIT

The employee's service credit in a given class or position and any higher position in a series or any other credit used by the Commission to determine order of layoff.

4.85 RETIREMENT

The termination of employment for service or disability pursuant to applicable retirement laws.

4.87 SECRETARY

Secretary / Chief Examiner as defined in Chapter 3.

4.89 STANDING OR REGULAR

The full Civil Service status of a regular employee.

4.90 SUBSCRIPTION TESTING SERVICES

A person or organization offering a service that tests and maintains lists of candidates for employment who have successfully completed the Subscription Testing Service process.

4.91 SUSPENSION

Temporary removal of an employee from employment, with or without pay, for cause, or pending determination of charges against the employee which could result in demotion or discharge.

4.93 VETERANS' PREFERENCE

Preference in examinations and employment, based on military service, as provided and defined by applicable laws.

5.0 RULE MAKING

5.01 AMENDMENTS OF RULES

The Commission may amend these rules or adopt new rules by a majority vote of the Commission at any regular or special meeting of the Commission.

5.03 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.

5.05 COPIES OF RULES

A copy of these rules and a copy of all subsequent rules or amendments shall be sent, as soon as practicable after adoption, to each affected department in the City. A copy shall be maintained in the office of the Commission for public inspection and copies shall be available for free public distribution as required by state law.

5.07 EFFECT OF RULES

The terms and conditions of Civil Service employment are governed by these rules, applicable statute, Milton Personnel Policies, and Milton Municipal Code. No employee shall have a property interest in or as a result of these rules. These rules, and rules the Commission may enact, regulate the mode and appointment of tenure in the Civil Service and employees are subject to these rules and amendments thereto.

6. CLASSIFICATION

6.01 CLASSIFICATION PLAN

A class specification shall be prepared and maintained for each class in the classified Civil Service system. Such specifications shall describe the class generally, distinguish it from other classes, give examples of typical duties of the class, and shall contain, when applicable, a statement of those qualifications for applicants for positions in the class not otherwise provided in these rules.

6.03 ADMINISTRATION OF POSITION CLASSIFICATION

The Secretary will make, or cause to be made, position classification studies of the individual positions or groups of positions whenever it is deemed necessary, whenever the duties or responsibilities of existing positions have undergone significant changes, whenever notification is received that new positions are to be established by the Council, or may do so upon request of an appointing authority or an affected employee if the classification of such position has not been reviewed within the last 12 months.

6.05 CLASSIFICATION OF POSITIONS

- a. Each position in the classified service shall be classified at the direction of the Secretary and allocated to its appropriate class in accordance with the character, difficulty, and responsibility of its designated duties. Positions shall be allocated to a given class when:
 1. The same descriptive title may be used to designate each position in the class;
 2. The same level of education, experience, knowledge, ability and other qualifications may be required of incumbents; and
 3. Similar test may be used to select incumbents.
- b. All classes involving the same character of work but differing as to level of difficulty and responsibility shall be assembled into a class series.
- c. Compensation or salary shall not be a factor in determining the classification of any position or the standing of any incumbent.
- d. In allocating any position to a class, the specification for the class shall be considered as a whole. Consideration shall be given to the general duties, the specific tasks, the responsibilities, the required and desirable qualifications for

such position, and the relationship thereof to other classes. The examples of duties set forth in such specification shall not be construed as all-inclusive or restrictive, and an example of a typical task or a combination of two or more examples shall not be taken, without relation to all parts of the specification, as determining that a position should be included within a class.

6.07 RECORDS

- a. A personnel record for each employee shall be kept with a record of the position occupied by the incumbent.
 1. It shall be the duty of each appointing authority to supply to the Secretary, in writing, all necessary information to enable the Secretary to maintain such records as required.
- b. The Secretary shall report any classification action to the department head concerned and to the Council. The department head shall be responsible for notifying his /her subordinates of any classification action affecting their status or allocation of their position.

6.09 EFFECT OF CLASSIFICATION CHANGES ON INCUMBENT

- a. Whenever the title of a class is changed without a change in duties or responsibilities, the incumbent shall have the same status in the retitled class as held in the former class.
- b. Whenever a position is reclassified from one class to a higher class, the incumbent shall not continue in the same position, except temporarily, without gaining eligibility for the new class by examination and receipt of an appointment thereto in accordance with these rules.
- c. Whenever a position is reclassified from one class to a lower class, the regular incumbent may, with the concurrence of the appointing authority and the Commission, elect to take a voluntary reduction to the lower class; or at his / her option, and with the concurrence of the appointing authority and the Commission, may remain in the reclassified position for a temporary period as limited by the Commission only until transfer can be made to another position in the class in which he / she has regular standing.

7. APPLICATION AND APPLICANTS

7.01 GENERAL REQUIREMENTS FOR FILING APPLICATIONS

- a. All applicants for examination for positions in the classified Civil Service must file an application on a form prescribed by the Secretary or Subscription Testing Service; and no one shall be admitted to any examination without having first filed an application on the proper form, giving fully, truthfully, and accurately all information required.
- b. In order to file an application for examination, the applicant must:
 - 1. Meet the requirements specified in these rules and in the official examination bulletin as of the closing day of the official filing period;
 - 2. Produce evidence of education, training, experience, or any lawful requirement for a class, as directed by the Secretary or Subscription Testing Service.
- c. Timing for filing applications:
 - 1. All applications for examination shall be filed with the Secretary or Subscription Testing Service within the time limit fixed in the official announcement of examination. Applications received by mail in the office of the Secretary must be postmarked on or before the closing date.
 - 2. The time for filing applications may be extended by the Secretary as the needs of the service require; provided, that the examination shall then be re-advertised through the same methods as the original posting.

7.03 APPLICATIONS FOR PROMOTIONAL EXAMINATIONS

- a. An application shall be accepted from any regularly appointed employee in the classes from which promotion is allowed who, in addition to meeting the requirements of Rule 7.01, has the requisite service credit as designated in the official bulletin.
- b. When designated on the official bulletins, the Secretary may permit filing by an applicant not more than one year under the specified minimum age on an open graded/entrance examination, and not more than two years under the specified experience on a promotional examination. A successful candidate will have delayed eligibility until the required minimum age or experience is attained.

7.07 REJECTION OF APPLICATION OR ELIGIBLE

The Secretary may reject an applicant for examination, withhold from a register or from certification the name of an eligible, or remove from a register the name of an eligible if the applicant or eligible:

- a. Does not meet the requirements set forth in these rules or in the bulletin announcing the examinations;
- b. Is physically or mentally unfit to perform the duties of the position sought;
- c. Has been convicted of any felony or a misdemeanor involving moral turpitude;
- d. Has been dismissed or has resigned in lieu of discharge from any position, public or private for any cause which would be a cause for dismissal from City services; or has an unsatisfactory record of employment in the City service; or with any other agencies or firm;
- e. Has made any material false statement or has attempted any deception or fraud in connection with this or any other Civil Service examination;
- f. Fails to appear for fingerprinting or other investigation as required;
- g. Has assisted in preparing the examination for which application is sought, or has in any other manner secured confidential information concerning such examination which might give an unfair advantage over other applicants in the examination;
- h. After notification, did not promptly appear at the time and place designated for the examination;
- i. Has been discharged from the Armed Forces under dishonorable conditions;
- j. Such actions contemplated by this rule may also be taken for other material reasons.

7.09 DEPARTMENT FROM EMPLOYMENT

- a. No one who has been dismissed from the service for cause involving moral turpitude shall be allowed to again enter the service, and anyone dismissed for other good cause shall be allowed to again enter the service only by express consent of the Secretary.

- b. Any applicant for appointment, promotion, reemployment, increase of salary, or other personal advantage, who shall directly or indirectly pay or promise to pay any money or other valuable thing to anyone whatever for or on account of such actual or prospective advantage, shall be ineligible for any further employment in the Civil Service.

7.11 NOTICE OF NON-ACCEPTANCE

Anyone against whom action is taken under Rule 7.09a shall be notified promptly by the Secretary of the reasons therefor by either oral notice at time of filing the application and / or written notice mailed or emailed to the applicant or eligible.

7.13 ADMISSION TO EXAMINATION PENDING APPEAL

The Secretary may admit to the examination anyone whose application was not accepted pending final disposition of an appeal, such admission to be without prejudice to either the City or the applicant.

7.15 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.

7.17 APPLICATIONS NOT RETURNED

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

7.19 APPLICATION FEE

The Commission shall establish a fee at the time of every examination.

8. EXAMINATIONS

8.01 ORDERING EXAMINATIONS

The Commission shall order an examination whenever it is deemed to be in the best interest of the City. The Secretary shall administer examinations as provided by these rules.

8.03 EXAMINATION ANNOUNCEMENT

Public notice of examinations shall be given by the Secretary on the City's website and other applicable websites and publications which the Secretary may direct. The official bulletin shall be posted in the Commission's office and distributed to appropriate departments for posting at all employment centers.

8.05 AMENDMENTS TO ANNOUNCEMENTS

The Secretary may amend any published announcement with appropriate public notice.

8.07 CONTINUOUS EXAMINATIONS

- a. A continuous or periodic examining program may be ordered and administered by the Secretary or Subscription Testing Service for any class of positions for other than promotional examinations. Filing will be open, applications received, and the examinations administered according to the needs of the service. The names of qualified eligibles resulting from such examinations shall be entered on the eligible register and certifications for appointment shall be made in the same manner as from any eligible register. Names of eligibles from successive examinations in the same program shall be entered on the eligible register for the class at the appropriate places as determined by final grades. Names may be withheld from certifications or removed from such eligible registers in the same manner and for the same reasons as from any eligible register.
- b. To expedite certification and appointment and to maintain security to examination material, no keyed copy of the written test will be provided at any time. The eligible register may be promulgated immediately after the results are obtained.
- c. Except as above provided, the rules applicable to other examinations shall apply to continuous and periodic examinations.

8.09 CHARACTER OF EXAMINATIONS

All examinations shall be competitive, impartial, and practical in their character. They shall be designed to qualify and rank applicants in terms of their relative fitness to perform the duties of the class for which the examination was ordered. An examination shall be deemed to be competitive when applicants are tested as to their relative qualifications and abilities or when a single applicant is scored against a fixed standard.

8.11 CONTENT OF EXAMINATIONS

Examinations may include written tests personal qualifications, physical or performance test, or evaluations of training and experience interview or any other suitable evaluation of fitness, or any combination of such tests. Such tests may evaluate education, experience, aptitude, knowledge, skill, physical condition, personal characteristics and other qualifications to determine the relative fitness of the candidates.

8.13 PARTS AND WEIGHTS

Each examination shall embrace one or more parts to which a raw score rank order, or percentage weight shall be assigned. One or more of the following options shall be utilized in scoring an examination:

- a. A raw score (actual number of questions answered correctly) shall be the sole indicator of final score of a written examination unless otherwise determined by the Commission prior to exam administration;
- b. A rank order list shall be the final result of an assessment center type of examination. The rank ordering shall be determined by the number of points earned in an assessment center. Assessors retained by the Commission shall have the latitude and flexibility of recommending individuals for promotion in addition to not recommending individuals for promotion, thus not including those individuals on the eligibility list who do not receive recommendations;
- c. A percentage weight shall be determined by multiplying the weight assigned to one or more parts of an examination and the sum of the resulting products, to be called the "weighted average."

8.15 PASSING GRADES

- a. A final minimum passing score required shall be determined by the Commission prior to any examination in which a raw score is utilized.
- b. Where an examination consists of two or more parts, the Commission may set a minimum score to be required in any part of such examination, and any applicant who fails to attain such minimum score shall be considered as having failed in the entire exam and shall not be entitled to take the balance of the exam. The minimum score required and the part of the exam to which it is applicable shall be stated in the official bulletin or announced at the time of the examination.

8.17 LATERAL SCORING TIE-BREAKER

In the event that there is a tie between two or more Lateral applicants, they will be ranked on the certified list based on the number of days each applicant has been a certified officer as determined by the Criminal Justice Training Center database.

8.19 PROMOTIONAL EXAMINATIONS

Vacancies in the higher positions of a class shall be filled by promotion, whenever practicable in the judgment of the Commission. Upon showing from a department that special training and knowledge gained within a department is essential to the proper filling of the vacancy, the Commission may limit an examination to a promotional within a department only.

8.21 OPEN GRADED EXAMINATIONS

An examination may be advertised as open graded when, in the judgment of the Commission, it is in the best interest of the service.

8.23 VETERANS' CREDIT

Veterans who have passed an examination, shall be entitled to credit pursuant to Chapter 41.04 RCW.

8.25 RESERVE OFFICER CREDIT

Reserve Officers who have served more than two years in any official department shall be entitled to $\frac{1}{4}$ point for each year.

8.27 SERVICE CREDIT IN PROMOTIONAL EXAMINATIONS

- a. Service credit in any promotional examination shall be given for a maximum of 20 years service with a maximum of ten points computed in the following manner:

0-3 years of service	no points
4-7 years of service	¼ point per year
8-15 years of service	½ point per year
16-20 years of service	1 point per year

- b. No points will be given for a fractional part of a year. Anyone who attains the required minimum grade on a promotional exam will be entitled to the applicable points. Service points will not be awarded to any person not attaining the minimum grade.

8.29 KEYED COPY INSPECTION AND EXAMINATION PROTEST

- a. Any protest against the scope, content, or practicality of any part of an examination shall be filed in writing with the Secretary within three working days immediately following the administration of such part, or within the time limit specified on the examination instruction sheet.
- b. When a keyed copy is provided, protests against the proposed keyed answers must be filed in writing within three working days or the time limitation specified on the examination instruction sheet. No keyed copy will be provided for inspection on standardized tests or on continuous or periodic examinations.
- c. When a qualifying grade is required on any part of an examination, those who fail to receive the qualifying grade shall be notified and any protest or appeal must be filed in writing within three working days after the notices of results have been mailed.
- d. Any protest against scoring or any allegation of clerical error in the final results of an examination must be filed in writing within three working days after the notices of results have been mailed.
- e. All protests filed in accordance with this rule shall be considered and any proper corrections made. If authorized corrections are applicable to other examinations, the corrections shall be made on all examination papers affected.

8.31 CORRECTION OF CLERICAL ERROR

Any clerical error may be corrected by the Secretary upon discovery at any time during the life of the eligible register, but no such correction shall affect an appointment made from a certification made prior to the correction.

8.33 EFFECTIVE DATE OF EXAMINATION RESULTS

Results of an examination shall become effective on the date official notice thereof is posted at the office of the Secretary.

8.35 REEXAMINATION

If an eligible takes a succeeding examination for the same class, the result of such examination shall not nullify any remaining eligibility already established. Eligibility attained by the second examination shall be entered on the register and the eligibility that will provide the greatest and advantage to the eligible shall be used.

8.37 EXAMINATION PAPERS

Examination papers of each eligible shall be kept on file in the office of the Secretary until the expiration of eligibility.

8.39 ADDITIONAL EXAMINATION

- a. Eligibles certified pursuant to Rule 9 shall be subject to medical, physical, or psychological examination and to such other examinations administered by the Secretary as authorized and approved by the Commission. Such other examinations include, but are not limited to, background examination and polygraph; provided, however, polygraph examination shall be allowed only for entry-level applicants. Reports of such examination shall be filed with the Secretary in the event the findings of the examination recommend that the eligible be rejected. The Secretary shall consider such recommendation, may require further examination, and may order the eligible's name dropped from the eligible register.
- b. The Secretary may designate a limited number of certified eligible for additional examination as provided in Rule 8.39a, in order to maintain an ability to certify registers pursuant to Rule 10.

9. REGISTERS AND ELIGIBILITY

9.01 ESTABLISHMENT OF ELIGIBLE REGISTERS

An eligible register for the Class shall be prepared by the Secretary and certified by the Commission on which the names of successful candidates shall be ranked as follows:

- a. On a promotional register: relative rank shall be determined by the examination rating or grade, plus any additional points for service credit plus percentage allowed by law for veterans' preference;
- b. On an open graded register: relative rank shall be determined by the examination grade, plus percentage allowed by law for veterans' preference;
- c. Priority of time of examination shall not give any preference in rank on the register.
- d. The preference in rank of eligibles having equal final general averages shall be determined as follows, in the order stated:
 1. The one who qualifies for veterans' preference in accordance with Washington State law. Eligibles on a promotional register do not so qualify;
 2. When the examination is composed of two or more parts with separate grades, the one who has:
 - (a) The highest grade on the most heavily weighted part of the examination; if a tie still exists, then the highest grade on the next most heavily weighted part, and so on for as many parts as the examination contains;
 - (b) The highest grade on the written test if all parts are weighted equally.
 3. When the examination has only one part, or the candidate have the same standing under 1 and 2 above:
 - (a) As between examinees who are City employees, the one having the greatest service credit with the City regardless of class or department;

- (b) If one is a regular or probationary City employee and the others are not, the regular City employee has preference.

4. By lot.

- e. If an applicant is permitted to file for and take an examination for delayed eligibility and if such applicant is successful in the examination, eligibility shall be held in abeyance until the candidate meets the requirements for eligibility; which must be reported in writing. If otherwise eligible, the candidate's name shall be placed on the register in accordance with the final examination grade. Any such eligibility shall expire with that of other eligible from the same examination.

9.03 RETURN TO REGISTER FOLLOWING LAYOFF

On layoff, an employee's name shall be placed upon the proper eligible register for the class, according to the grade, for one year from the date of such layoff.

9.05 RETURN TO ELIGIBLE REGISTER AFTER RESIGNATION OR RETIREMENT

- a. A former employee who resigned or retired may request return of his / her name to the proper open graded eligible register for the class. Such request must be made within one year from date of resignation or retirement.
- b. Any request for return to register following resignation or retirement must be supported by written recommendation of the former employing department.
- c. A former employee whose eligibility is reinstated under this rule shall be certified according to Civil Service rules. However, the name of such an eligible need to be considered only by the department which recommends the return of the name to the register.
- d. The name of a former employee who resigned or retired may not be returned to a promotional register, unless recommended by the head of the former employing department and approved by the Civil Service Commission within one year from the date of resignation or retirement.

9.06 APPOINTMENT WITHOUT EXAMINATION

Except as provided in 9.03, 9.05, and 9.07, any return to the Civil Service shall be by examination only.

9.07 ESTABLISHMENT OF REINSTATEMENT REGISTERS

- a. The names of regular employees who have been laid off or, when requested in writing by the appointing authority, probationary employees who have been laid off, shall be placed upon a reinstatement register for the same class and for the department from which laid off, for a period of one year from the date of layoff.
- b. Upon the request of an appointing authority, the Secretary may approve the certification of anyone on such a reinstatement register as eligible for appointment on an open competitive basis in the department requesting certification.
- c. Anyone on a reinstatement register who becomes a regular employee in another department shall lose reinstatement rights in the former department.
- d. Anyone accepting a permanent appointment in the class from which laid off, and in a department other than that from which laid off, is not to be certified to the former department unless eligibility for that department is restored.
- e. Refusal to accept permanent work from a reinstatement register shall terminate all rights granted under this chapter; provided, no one shall lose reinstatement eligibility by refusing to accept appointment in a department other than the one from which laid off.

9.09 DURATION OF ELIGIBLE REGISTERS

- a. If an applicant is permitted a delayed administration of an examination, and is successful in such examination, that applicant's eligibility shall expire with that of other eligibles from the same examination.
- b. A register may remain in effect for up to 12 months. The Commission may extend a register for up to one additional year.
- c. Eligibility upon return of a name to an eligible register following resignation shall be for one year from such return.
- d. An employee who accepts a position in another class in the same department, or accepts an appointment in another department, or is laid off, shall retain all earned eligibility for the periods provided for in Rule 14, except that if an appointment is accepted in another department (whether following a layoff or otherwise), continuation of the departmental promotional eligibility for the first department shall be at the option of that department.

9.11 AVAILABILITY OF ELIGIBLES

- a. It shall be the responsibility of an eligible to notify the Secretary in writing immediately of changes in address, telephone number, change of name through marriage or otherwise, or any changes which may affect availability for employment.
- b. The name of an eligible who submits a written statement restricting the conditions under which available for employment, shall be withheld from certifications which do not meet the conditions specified. New written statements may be filed at any time within the duration of an eligible register modifying conditions under which employment would be accepted.

9.13 CANCELLATION OF ELIGIBILITY

- a. Anyone's name may be removed from an eligible register for failure to pass a required examination or upon receipt of proof of material physical or mental disability, bad character or their unfitness, fraudulent conduct, or false statements by the eligible or by others with the eligible's collusion, in connection with any application, examination for, or securing of an appointment. A previous unsatisfactory work record with Milton or dismissal from the service, or dismissal from any position, public or private, for any cause which would be a cause for dismissal from Milton service shall be deemed cause for cancellation of eligibility.
- b. Separation from the service will terminate any promotional eligibility.
- c. Upon request of an appointing authority that an eligible has failed to respond to call, or has refused to accept employment, the Secretary may remove the eligible's name from the register.
- d. Failure to respond to the canvass of a register within 14 days from such canvass shall be deemed cause to strike the name of any eligible from the register.
- e. Refusal to accept reemployment of a permanent position shall constitute separation from the service except as provided in Rule 9.07e.
- f. Such action contemplated by this rule may also be taken for other material reasons.

10 CERTIFICATION AND APPOINTMENT

10.01 GENERAL PROVISIONS

Vacancies in the classified Civil Service shall be filled by reinstatement, promotional appointment, assignment, open graded appointment, transfer, reduction, demotion, or in the absence of an appropriate register, the Secretary may authorize a temporary appointment.

10.03 REQUEST FOR CERTIFICATION

Whenever an appointing authority wishes to fill a vacancy, a request for certification shall be submitted to the Secretary. The request shall show the number of positions or vacancies to be filled, the class title, tenure of work to be performed, cause of the vacancy, or if a new position, authority for the appointment, and any other details necessary for full description of the position to be filled.

10.05 CERTIFICATION

- a. Certification to fill a vacancy shall be made by the Civil Service Commission from registers in the following order and as provided in this rule:
 - (1) If a vacancy is to be filled, the Secretary shall certify to the appointing authority the names of the five highest available eligibles from an entry level or lateral register. The Secretary shall certify to the appointing authority the names of the three highest available eligibles from a promotional register;
- b. If two or more vacancies are to be filled from any of the above registers, other than the reinstatement register, the name of one additional person shall be certified for each additional position;
- c. If the appointing authority makes an acceptable showing that any of the eligibles certified are not available or that they do not respond, sufficient additional names shall be furnished to complete the certification.
- d. The application and the examination papers of the certified eligible shall be available for inspection by the Appointing Authority.

10.07 REGULAR APPOINTMENT

A regular appointment to fill a vacancy must be made from the names contained on the official certification. The official appointment report shall show the name of the person appointed, the effective date, the salary, the nature or duration of the appointment, and any other information required.

11 PROBATION

11.01 PROBATIONARY PERIOD

After each full-time or part-time permanent appointment from an eligible register, the employee appointed shall serve a complete period of probation before the appointment is deemed complete.

11.03 LENGTH OF PROBATIONARY PERIOD

The period of probation for newly appointed employees shall be equivalent to 12 months of full time service following provision of a certificate of completion from an approved Police Academy. The period of probation for promotional appointments shall be 12 months from the effective date of such promotional appointment. Minor absences, due to vacations, annual military leave, illnesses, etc. shall not be construed as interrupting the probationary period.

11.05 INTERRUPTION OF PROBATIONARY PERIOD BY MILITARY SERVICE

A probationer who engages in active military service on the extended basis shall be considered as having an interrupted probationary period. Such employee may continue the probationary period following return from military leave.

11.07 PROBATIONARY DISCHARGE OR DEMOTION

- a. The appointing authority, by assigning in writing to the Commission the reasons therefor, may discharge any probationer. Such reasons need not constitute just cause and shall not otherwise be reviewed by the Commission.
- b. A probationer may be demoted for inability to perform satisfactorily the duties of the position to which he / she was appointed, in accordance with Rule 17.03 on demotion; or may be allowed eligibility for another position in the same class, for which he / she is deemed qualified by the appointing authority, subject to approval by the Commission.
- c. A probationer demoted to a class in which he / she has not held regular standing shall start a new period of probation.

12 SERVICE CREDIT

12.01 SERVICE CREDIT

Service credit in a class for a regular employee shall be computed to cover all service subsequent to regular appointment to a permanent position in that class and shall be applicable in the department in which employed and specifically as follows:

a. General Provisions:

1. After completion of the probationary period, service credit will be given for employment in the same, and equal or higher class, and shall include any temporary or intermittent employment service in the same class under a regular appointment prior to the permanent appointment.
2. Service credit will be given for previous regular employment of an incumbent in a position which has been reallocated and in which he / she has been continued with recognized standing.
3. Credit will be given for services prior to an authorized transfer.
4. Credit will be given for time lost during:
 - (a) Jury duty;
 - (b) Disability incurred in the line of service;
 - (c) Illness or disability compensated for under any plan authorized and paid for by Milton;
 - (d) Service with the armed forces of the United States, including but not to exceed 21 days prior to entering into active service and not to exceed 90 days after separation from such service;
 - (e) Service with the Armed Forces during the annual leave for military training.

b. No service credit shall be given:

1. For service of a regular employee in a lower class to which he / she has been reduced and in which he / she has not had regular standing, except from the time of such reduction;

2. For any employment prior to a separation from the service other than by a resignation which has been withdrawn as provided by Rule 16.02. (Layoff of a regular employee does not constitute a separation from the service.)
- c. Service Credit for Military Service during Probationary Periods. If military service, as specified in Rule 11.05, is during the probationary period, such time shall be credited at straight time after the probationer returns to work and completes the required probationary period.
- d. Service Credit for Promotion. Credit, as specified in this rule, shall be allowed for:
 1. Recognized services in all the classes from which promotion is allowed;
 2. Service in classified assignments and in higher positions in the same series of classes;
 3. Time lost during military service as specified in Ruel 12.01.a.4.(e).
 4. Time lost due to injury or disability incurred on the job.
- e. Special provisions for Service Credit in Layoff. In layoff, credit shall be given as specified in Rule 12.01.a.1. through 4. Inclusive.
- f. Service Credit for Salary Increases. Service for salary increases shall be as prescribed by the legislative authority.

13 TRANSFER

- a. The transfer of an employee shall not constitute a promotion in the service.
- b. Intra-departmental transfers: An appointing authority may transfer an employee from one position to another position in the same class in his / her department without prior approval of the Secretary, but must report such transfer to the Civil Service Commission within five days of its effective date.
- c. These rules have no authority or effect on positions or departments not subject to the Civil Service. Transfer to / from positions or departments not subject to the Civil Service are unaffected by these rules.

14 LAYOFF

- a. In a given class, in a department, the following shall be the order of layoff:
 1. Provisional appointees;
 2. Temporary or intermittent employees, not earning service credits;
 3. Probationers (except as their layoff may be affected by military service during probation);
 4. Regular employees, in the order of their length of service; the one with the least service being laid off first.

- b. Layoff Out of Order: The Commission may grant permission for layoff out of the regular order upon showing, by the appointing authority of the department, of a necessity therefor in the interest of efficient operation of his / her department, after giving any employee(s) affected an opportunity to be heard.

- c. Reduction in Lieu of Layoff: At the time of any layoff, a regular employee or a promotional probationer, shall be given an opportunity to accept reduction to the next lower class in a series of classes in his / her department.
Transfer in Lieu of Layoff: An employee so reduced shall be entitled to credit for any previous regular service in the lower class and to other service credit in accordance with the Service Credit Rule 12.

15 LEAVES OF ABSENCE

15.01 DURATION OF LEAVES

A leave of absence, without pay for a period not exceeding 30 consecutive days, may be granted by the appointing authority of a department, who shall give notice of such leave to the Commission.

15.02 RETURN FROM LEAVE

At the expiration of the authorized leave of absence, a probationer or regular employee shall resume the same class of work with standing and service credit as determined by these rules.

15.03 MILITARY LEAVE

See Milton Municipal Code, Section 2.88.150.

15.05 FILLING VACANCY

All temporary employment, caused by leave of absence, shall be made pursuant to Rule 10.

16 RESIGNATION

16.01 HOW SUBMITTED

Resignation of any employee from the service shall be made, in writing and filed with the Secretary, after approval by the appointing authority.

16.02 WITHDRAWAL OF RESIGNATION

The Commission may permit the withdrawal of a resignation only upon written request filed that the resignation was a result of coercion, fraud, or was otherwise violative of Civil Service policy and must be filed within 30 days from the effective date of the resignation.

17 DISCIPLINE AND DISCHARGE

17.01 SUSPENSION – DISCHARGE

- a. A department head may suspend a subordinate, with or without pay, for a period not to exceed 30 days for a good cause.
- b. A department head may discharge a subordination for good cause.

17.03 DEMOTION

- a. Demotion of an employee to a lower class for good cause may be made by the department head.
- b. An employee, so demoted, shall lose all rights to the higher class.
- c. If the employee has not had previous standing in the lower class, such demotion shall not displace any other regular employee or any probationer. The Secretary shall be satisfied as to the ability of such demoted employee to perform the duties of the lower class and shall require the completion of a probationary period.

17.05 DISCIPLINE – GOOD CAUSE – ILLUSTRATED

The following are declared to illustrate adequate cause for discipline, discipline may be made for any other good cause:

- a. Incompetency, inefficiency, or inattention to, or dereliction of duty;
- b. Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct him / herself;
- c. Mental or physical unfitness for the position which the employee holds;
- d. Dishonest, disgraceful, or prejudicial conduct;
- e. Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid, or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under Civil Service;

- f. Conviction of a felony, or a misdemeanor involving moral turpitude;
- g. False or fraudulent statements or fraudulent conduct by an application, examinee, eligible, or employee, or such actions by others with his / her collusion;
- h. Willful or intentional violation of any lawful and reasonable regulation, order or direction made or given by a superior officer;
- i. Willful intentional violation of any of the provision of these rules.

18 PREDISCIPLINARY HEARING

18.01 PREDISCIPLINARY HEARING – REQUIRED

A department head shall provide and arrange for a predisciplinary hearing prior to demotion, suspension, or discharge of a subordinate.

18.03 PREDISCIPLINARY HEARING – STANDARDS / NOTICE OF DISCIPLINE

- a. An employee shall be provided, in writing, with a notice of the charge and an explanation of the department's evidence. The employee shall be given an opportunity to respond to the charge, orally or in writing, as to why the department's proposed action should not be taken.
- b. The employee may have legal counsel present or union representation at a predisciplinary hearing.
- c. The department's explanation of the department's evidence at the predisciplinary hearing 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 subsequent hearing from presenting a more detailed and complete case, including presentation of witnesses and documents not available at the predisciplinary hearing.
- d. Should the appointing authority determine to discipline following the predisciplinary procedure, 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.
- e. The Commission shall not consider, on appeal, any basis for disciplinary action not previously presented to the employee.

19 HEARINGS

19.01 HEARINGS – APPEALS

- a. Any regular employee who is demoted, suspended or terminated may appeal such action to the Commission.
- b. Any employee who is alleged to be probationary by the disciplining department may only appeal to the Commission the questions of his / her probationary status and whether the procedures for discharge of probationers, as found in these rules, were properly followed.
- c. Any employee, or department, which is adversely affected by any alleged violation of Civil Service rules or Milton ordinances may appeal such violation to the Commission

19.03 APPEALS – TIME – FORM

A notice of appeal shall be filed with the Secretary within ten days of the action that is the subject of the appeal. The notice of appeal shall be in writing and include the mailing address and street address where service of process and other papers may be made upon the appellant. The notice of appeal shall also contain a brief description of the facts giving rise to the appeal, and a concise statement of the reason for the appeal. Forms provided by the Commission may be used for such notice, but are not required.

19.05 EXHAUSTION OF ADMINISTRATIVE REMEDIES

- a. The Secretary may direct the employee to exhaust available administrative procedures regarding a disciplinary matter, before hearing the matter. See Rule 18.
- b. If the employee exhausts the available administrative procedures and continues to believe that good cause has not been shown, the employee may within ten days after the final step of the procedure, request the Secretary to return the appeal to the Commission for hearing.

19.07 AUTHORITY OF SECRETARY / CHIEF EXAMINER

- a. The Secretary to the Commission shall have the authority to make order of preliminary matter, including motions for discovery to compel discovery, continuance, protective orders, and other similar matters. Such order may be appealed to the Commission.

- b. The Commission may authorize the Secretary to investigate any reports of appeals relating to the enforcement or application of the Civil Service or those rules which do not involve a disciplinary proceeding. The Secretary 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 a full hearing.
- c. As an aid to investigations authorized by the Commission, the Secretary may subpoena any documents that would be discoverable for purposes of hearing preparation and may take depositions by tape records of any person who may have relevant knowledge. Depositions so taken shall be kept as part of the records of the Commission.

19.09 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 with prejudice, setting forth the basis of the 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.

19.11 APPEALS – NOTICE OF HEARING

Upon receipt of a notice of appeal, the Secretary shall forward a copy of the notice to other affected parties. As soon as possible thereafter, but in any event within ten days, a hearing before the Commission shall be set, with each party to be afforded not less than 20 days notice of such hearing. Subsequent hearings on the same appeal shall have one week notice unless waived by all parties. All parties may agree to waive the notice provisions and time limits provided by this section.

19.13 APPEALS – AUTHORITY OF DEPARTMENT

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 the 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.

19.15 SERVICE OF PROCESS – PAPERS

- a. The Secretary shall cause to be served all order, notices, and other papers issued by the Commission, together with any other papers that the Commission is required by these rules to serve. Every other paper shall be served by the party filing the notice, document 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 certificate of any attorney or the Secretary.
- c. Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail upon deposit in the mail properly stamped and addressed.
- d. Papers required to be filed with the Commission shall be deemed filed upon action receipt of the papers by the Secretary. All papers, except the original appeal notice, shall be serviced with the original and five copies. Briefs and memoranda must be filed with the Commission at least three 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 Commission, in writing, of any change in mailing or street address and telephone number. Failure to so notify the Commission shall constitute a waiver of service and notice under these rules.

19.17 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.
- 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.

19.19 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 thing 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 proceeding. The party requesting the subpoena is responsible for having said subpoena properly served. Such requests for subpoenas shall be submitted to the Commission offices at least three days prior to the hearing.
- c. Service of subpoena 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 Secretary's office; and if such service has not been acknowledged by the witness, the persons 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.

19.21 BURDEN OF PROOF

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 cause. At any other hearing, the petitioner or appellant shall have the burden of proof by a preponderance of the evidence.

19.23 EVIDENCE

- a. Subject to other provisions of these rules, all competent and relevant evidence shall be 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 rule. 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 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 will make request of other parties for such stipulation no later than three days in advance of the hearing, barring unusual circumstance. The party of whom the request is made shall respond no later than one day prior to the hearing.

19.25 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.

19.27 DECISION

In any appeal, the Commission shall issue a decision, including findings of fact, conclusions of law, and an order to each party or counsel of record for each party. A decision shall be issued within 14 days of the close of the hearing of any appeal or other proceeding heard only by the Commission. Absent the consent of an appellant to an extension of time, failure to issue a decision within the time prescribed shall result in an appeal being sustained.

19.29 REMEDIES

The Commission may issue such remedial orders as deemed appropriate.

19.31 RECONSIDERATION

A party may move for reconsideration by the Commission only on the basis of fraud, mistake, or misconception of facts. Such motion must be filed with the Commission within ten days of the decision of the Commission. Such motion for reconsideration shall be decided on affidavits, absent special showing that testimony is necessary.

19.33 WAIVER

Upon stipulation of all parties to a proceeding, and upon a showing that the purposes of the rules or ordinances of Milton would be better served, the Commission may waive the requirements of any of these rules.

20 RETIREMENT AND DISABILITY

20.01 RETIREMENT

Employees of Milton, who are members of pension fund systems as provided by law, shall be retired on account of age, service, or disability in accordance with the pertinent provision of law.

20.02 REINSTATEMENT AFTER DISABILITY RETIREMENT

- a. The Secretary shall review any report from a retirement system showing that a former employee, who is on disability retirement, has regained his / her health to the extent employable.
 1. Upon being satisfied that the employee is physically and mentally competent to perform the duties of the regular class, the Secretary shall:
 - (a) Order return of the employee for former employment status as if a leave of absence had been granted; or
 - (b) Place the name on the reinstatement register for an available class and department.
 2. The name of an employee, who is employable but not fully recovered, shall be placed on the most advantageous reinstatement register for the same department, for an equivalent or lower class comprised of duties the employee is competent to perform, as determined by the Commission.
 3. If such an employee's name is placed on a reinstatement register, service credit acquired previous to retirement shall be continued. The employee shall be reinstated from such register and transferred or reduced in grade according to rules. Eligibility rights shall not expire as prescribe in case of layoff.
- b. Any reinstatement in a class, other than that in which last employed, shall not result in a promotion.
- c. The provisions of this rule shall not apply in the event an employee is discharged from the service and concurrently given a disability retirement.

21 MISCELLANEOUS

21.01 REPEALS AND SAVINGS

All matters shall be subject to these rules, and to that extent, all previous Civil Service rules are hereby repealed.

21.03 COMPUTATION OF TIME

- a. In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a Milton legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a Milton legal holiday. When the period of time prescribed or allowed is ten days or less, intermediate Saturdays, Sundays, and Milton legal holidays shall be excluded in this computation.
- b. The date of notice, for purpose of these rules, shall be the date on which notice of an action is posted in the Secretary's office or is mailed to a party to a proceeding.

21.05 ADOPTION

The adoption of these rules in whole was during the regularly scheduled Civil Service meeting by the Civil Service Commission on October 14, 2019.

These rules may be hereinafter amended by a majority vote of the Commission.

ATTEST:

Kyle Stevenson
Milton Civil Service Commission
Secretary/Examiner