# RULES AND REGULATIONS

# OF THE

# BENTON COUNTY

# CIVIL SERVICE COMMISSION

**Revised: February 2016**

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## 1. GENERAL PROVISIONS

1.01 AUTHORITY AND APPLICATION. These rules are promulgated pursuant to the authority granted by chapter 41.14 RCW. These rules are applicable to proceedings before the Benton County Civil Service Commission and should be read in conjunction with the specific provisions of that chapter.

1.03 SCOPE AND PURPOSE. These rules govern the continuing administration of the Civil Service System of Benton County. They apply to all regular positions and employees governed by the Civil Service System, except as otherwise provided by law or collective bargaining agreement. The purpose of these rules is to assure that the Civil Service System is administered in accordance with the codes and ordinances of Benton County and that all proceedings before the Benton County Civil Service 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 chapter 41.14 RCW. These rules are presumed to be valid and shall be upheld unless in direct conflict with chapter 41.14 RCW.

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 Tuesday of each month, at 10:00 am, in the Benton County Personnel Conference Room, Benton County Justice Center, Kennewick, Washington, 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. Two (2) members of the Commission shall constitute a quorum. No action of the Commission shall be effective unless two (2) members concur therein. All Commission meetings or hearings, regular or as required, shall be open and public. PROVIDED: the Commission may meet in executive session as authorized by the Open Public Meetings Act (chapter 42.30 RCW, as amended).

2.01.01 Commissioners may appear in person, *via* teleconference or electronically.

2.01.02 When appropriate, the (Acting) Chair of the meeting may accept a proxy vote from an absent Commissioner *via* email, facsimile transmission or US mail.

2.01.03 The Secretary may provide meeting materials, *e.g.*, agendas, minutes, reports, etc., in paper form, facsimile transmission or *via* email.

2.03 CHAIR--VICE CHAIR. At the first regular meeting in January of each year, when required, the Commission shall elect one (1) of its members as Chair and another member to serve as Vice Chair, for a term of two (2) years, or the remainder of his/her term, whichever period is shorter. 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 the final authority on all questions of procedure and parliamentary law not otherwise provided by these rules. However, with the concurrence of two (2) commissioners, such rules may be waived or modified. In quasi-judicial proceedings, the Commission shall be guided, but not bound by, the Civil Rules for Superior Court.

2.06 COMMISSIONERS – REMOVAL. Any member of the Commission may be removed from office for incompetence, incompatibility, dereliction of duty, malfeasance in office, or other good cause. No Commissioner may be removed without charges proffered in writing, due notice, and a full hearing conducted before the Board of Benton County Commissioners.

No Commissioner may have more than three (3) unexcused absences in a calendar year. More than three (3) absences in a calendar year could result in being removed from the Commission as in "other good cause".

2.07 COMMISSIONERS--CHALLENGE. An interested party, including other Commissioners, may challenge the authority of a Commissioner to hear a matter or, in the alternative, a Commissioner may disqualify him/herself from hearing a matter for any of the reasons listed in this section. The challenged Commissioner(s) shall review and rule on the challenge prior to proceeding with the hearing. When the disqualification is not voluntary, eligibility of a Commissioner shall be determined by majority vote of the Commission. Any challenge filed under this section must be timely raised in advance of the matter being ruled upon, or be considered waived by the party(ies) asserting the challenge unless, in the exercise of reasonable diligence, a basis for challenge is unknown to a party prior to commencement of a hearing. Reasons for disqualification include but are not limited to:

2.07.01 Prior personal knowledge of the appellant or issue before the Commission that would preclude an objective decision.

2.07.02 A conflict of interest.

2.07.03 An *ex-officio* relationship with any party to a hearing or appeal.

2.07.04 Such other reasons as may be considered by the Commission.

2.08 COMMISSIONERS--CHALLENGE--NECESSITY. If, as a result of disqualification(s) pursuant to Section 2.07 above, there is no longer a lawfully constituted quorum available, then the remaining Commissioner(s) shall proceed with the hearing unless the matter can reasonably be continued to a future regular or special meeting.

2.09 OFFICE--HOURS. The office address of the Benton County Civil Service Commission is: 7122 W. Okanogan Place, Bldg. A, Kennewick, Washington, 99336. The regular office hours of the Commission staff shall be 8:00 a.m. to 5:00 p.m. (closed Noon to 1:00 p.m.), Monday through Friday, excluding holidays.

2.11 PUBLIC RECORDS. Public records of the Commission shall be available for inspection and copying during the regular office hours of the Commission staff, as provided by Benton County rules in chapter 5.14 Benton County Code, as amended. No fee will be charged for inspection of public records. Inspection will be 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 Benton County rules in chapter 5.14 Benton County Code, as amended. These rules shall be printed for free public distribution and available on the Benton County website: http://www.co.benton.wa.us

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/Chief Examiner.

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 mailing address and telephone number, and shall timely 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 therefore.

2.17 REPORTS—ELECTED OFFICIAL/DEPARTMENT MANAGER. An Elected Official/Department Manager 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, change in pay, leave of absence or return, layoff, reinstatement, suspension, reclassification, change of compensation;

2.17.02 Every separation from the service with the reasons therefore; and

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

## 3. SECRETARY AND CHIEF EXAMINER

3.01 SECRETARY AND CHIEF EXAMINER--APPOINTMENT. A Secretary and Chief Examiner or, Secretary/Chief Examiner, (hereafter, "Secretary") as determined by the Commission, shall be appointed by the Commission.

3.03 QUALIFICATIONS. The Secretary shall be appointed as a result of a competitive examination, which examination must be open to all properly qualified applicants. PROVIDED: no appointee of the Commission, either as Chief Examiner or as an Assistant to the Chief Examiner, shall be an employee of the Benton County Sheriff's Office.

3.05 SECRETARY--DISCIPLINE. The Secretary may be subject to suspension, reduction, or discharge in good faith for cause in the same manner and subject to the same limitations as are provided in the case of other FLSA exempt (salaried) members of the classified service.

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 (Department), responsible to the Commission, and shall direct the activities of all personnel in the Department, including their appointments and removals;

3.07.02 Delegate duties where necessary and supervise and direct the work of all persons employed in said Department, including the preparation, conduct, supervision 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 Classify all civil service positions in the classified service, maintain a schematic list of all such classes in the classification plan, and prepare and maintain specifications for each class and job description.

3.07.05 Duties include without limitation: determine which examinations shall be conducted, the minimum qualifications of applicants and the subject to be covered in each examination; determine the keeping minutes of Commission meetings/hearings; provide proper notice of regular and special meetings of the Commission; schedule hearings and notifying all parties of hearings schedules; recommending rule amendments to the Commission; take and maintain records for the Commission; preserve reports made to the Commission; supervise and keep records of Commission examinations; submit periodic reports to the Commission regarding test plans and activities, together with a report on all appeals from rulings or appeals from any part of the examination; and, perform other duties as assigned by the Commission.

3.07.06 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 the action objected to, the grounds supporting the request, and the relief

sought, and must be made within ten (10) 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

Words, phrases and terms utilized and otherwise appearing in the Benton County Civil Service Commission shall have their generally accepted meaning, except as otherwise outlined in the rules or as defined in this section.

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

4.02 ADMINISTRATIVE LEAVE: Leave with or without pay, not charged to an employee's accrued paid leave accounts, taken as a pre-disciplinary measure to facilitate investigation or consideration of discipline or imposed or granted by the Appointing Authority for other reasons.

4.03 ALLOCATION/RELOCATION: 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.

4.04 ALTERNATE STAFFING: Establishing positions at multiple classification levels within a job series.

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

4.06 APPOINTEE: The person the Appointing Authority appoints from the certified to fill a position.

4.07 APPOINTING AUTHORITY: The Benton County Sheriff or designee.

4.08 APPOINTMENT:

4.08.01 APPOINTMENT - Regular: The appointment of a certified Eligible.

4.08.02 APPOINTMENT -- Provisional: A limited Appointment of a (a) certified [or non-certified] person to a classified position which is not vacant, but is currently unfilled due to an authorized leave of absences; or (b) a non-certified person to a classified position for which there is a current eligible register.

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

4.09 ASSIGNMENT: An employee may be assigned by the Appointing Authority to a position, which carries additional salary and additional limited responsibilities and is within the scope of the specification for the class from which the assignment is made.

4.10 BYE: The act of a certified Candidate to voluntarily decline an employment interview, thereby automatically changing that Candidate's standing to the lowest number on the current eligibility list.

4.11 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".

4.12 CANDIDATE: Any Applicant who has completed, or is in the process of completing a Civil Service examination.

4.13 CAUSE: Good, sufficient or just Cause as determined by the Commission; exercised by the Appointing Authority in good faith and without discrimination on the basis of religion; politics or other protected classification; and, in consideration of the total context of a disciplinary action, including procedural fairness and consideration of an employee's work record.

4.14 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.

4.15 CERTIFY: The act of the Civil Service Commission to supply an Appointing Authority with the names of Applicants who are eligible for appointment to the class and positions in the classified service for which certification is requested.

4.16 CHIEF EXAMINER: The Secretary or Executive Officer of the Civil Service Commission.

4.17 CIVIL SERVICE EMPLOYEE: Any Employee who has Civil Service status.

4.18 CLASS/CLASSIFICATION: A position or group of positions having similar duties and responsibilities, requiring similar qualifications, which can properly be designated by one title indicative of the nature of the work and which carry the same salary range (RCW 41.14.070).

4.19 CLASS SPECIFICATION: A written description of the general purpose duties, responsibilities, and qualifications of a classification.

4.20 CLASSIFICATION SERIES: Two (2) or more hierarchical classifications within a job family (Corrections Officer, Deputy Sheriff, etc.) comprising a career ladder.

4.21 CLASSIFIED SERVICE: All positions and employments in the various divisions of the Sheriff's Office, with the exception of those specified in RCW 41.14.070.

4.22 COMMISSION: The Benton County Civil Service Commission.

4.23 COMMISSIONER: Any member of the Benton County Civil Service Commission.

4.24 CONTINUOUS SERVICE: Employment in the Classified Service as a regular or probationary Employee, which is uninterrupted except for authorized leave of absence or separation due to layoff; PROVIDED: time lost due to layoff shall not be included in the determination of length of continuous service.

4.25 COMPUTATION OF TIME: *See*, chapter 21.03 herein.

4.26 COUNTY: Benton County, State of Washington.

4.27 DEMOTION: Appointment either voluntarily or involuntarily to a Classification having a lower maximum salary. Demotion may be voluntary, disciplinary or in lieu of layoff. Demotion may be considered an appropriate disciplinary action when the employee has failed to demonstrate the performance required for a classification, but has demonstrated or is believed capable of

satisfactory performance in a lower classification. Demotion does not include intra-classification reassignments which may result in a loss of premium pay associated with the assignment.

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

4.29 ELIGIBLE: Anyone holding a position on an active Eligibility List for a class and who has rights per Commission rules to be certified to appointment.

4.30 ELIGIBILITY LIST: 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.

4.31 EMPLOYEE: A person holding a position in the Benton County Civil Service System.

4.31.01 EMPLOYEE-Regular: An Employee who has been appointed from a Certification to a regular position within the classified or unclassified service, and has satisfactorily served the full probationary period.

4.31.02 EMPLOYEE-Temporary: An Employee not holding a regular classified or unclassified position. Temporary employees are those hired for projects or peak workload situations and are not subject to these rules.

4.31.03 EMPLOYEE-Exempt (Unclassified): Any Employee in a position of employment which is not subject to the Civil Service rules and regulations, and in which one serves at the discretion of the Appointing Authority.

4.31.04 EMPLOYEE-Probationary: A person appointed provisionally to a position.

4.31.05 EMPLOYEE-Provisional: An employee holding a temporary appointment for (4) months or less to a regular classified position in the absence of an Eligibility List.

4.31.06 EMPLOYEE-Substitute: An Employee temporarily appointed for a period of four (4) months or less to a regular position to replace an Employee on a leave of absence.

4.31.07 EMPLOYEE-Emergency: An Employee whose services are required in case of an emergency for a period not to exceed thirty (30) calendar days.

4.32 EXAMINATION: Any test or process used to determine the qualifications or Candidates for regular positions within the service. Or the complete set of examinations used to establish an eligibility list.

4.32.01 EXAMINATION-Open: An Examination open to any member of the public meeting the requirements as stated in the official announcement of the Examination.

4.32.02 EXAMINATION-Promotional: An Examination limited to current regular employees of the Appointing authority meeting the requirements stated in the official announcement of the Examination.

4.33 FINAL EXAMINATION SCORE: Total exam score, plus additional veteran's preference, (reserve deputy preference), or service credit points, for which an Applicant is eligible.

4.34 GRIEVANCE: A misunderstanding or disagreement as to the interpretation of the rules herein or, application of said rules to a given situation or process.

4.35 LATERAL ENTRY (LATERAL APPOINTMENT): the appointment of a qualified Candidate from another law enforcement agency, subject to Benton County Civil Service.

4.36 LAYOFF: A separation from Classified Service due to the elimination of a position based on lack of work or funds, reorganization or other reasons outside the Employee's control and of a non-disciplinary nature.

4.36 OFFICIAL NEWSPAPER: The newspaper designated as the official newspaper by Benton County, or otherwise designated by the Benton County Civil Service Commission.

4.37 ORIGINAL APPOINTMENT: Regular appointment from an Eligible list to a position in the Classified Service.

4.38 PERMANENT EMPLOYEE: An Employee whose permanent retention (as opposed to probationary, provisional or temporary service) has been approved at the completion of his/her probationary period; also means "regular" Employee as defined in Rule 4.55.

4.39 POSITION: An office or appointment, whether full-time, part-time, temporary, permanent, occupied or vacant, comprised of specific duties.

4.39.01 POSITION-Regular: A budgeted full or part-time position within the classified or unclassified service.

4.39.02 POSITION-Temporary: A limited-duration full or part-time assignment funded but not budgeted as a position within the classified or unclassified service. Temporary positions and Employees do not receive the benefits, rights and privileges of regular Employees and are not subject to these rules.

4.39.03 POSITION-Permanent Part-Time: Employment in a permanent position for work on a basis of less than eight (8) hours a day, or less than forty (40) hours a week, but on a regular basis.

4.40 PROBATION: A trial period following appointment from an open or promotional eligibility list during which time an Employee is required to demonstrate competency in the position. An original probationary period or Employee refers to the initial probationary period served following appointment to a position in the classified service. A promotional probationary period or Employee refers to the probationary period following promotion, reclassification or other such actions as provided for in these rules.

4.41 PROBATIONARY RELEASE. An involuntary termination from employment due to failure to satisfactorily complete the probationary period for the class. The Appointing Authority may release Employees during an original probationary period for any lawful, job-related reasons, without recourse to the appeal procedures contained in these rules. A regular Employee serving a promotional probationary period may be returned to his/her former classification without recourse to the appeal procedures in these rules.

4.42 PROMOTION: The assignment of an Employee following a promotional examination to a higher class, having a higher salary range.

4.43 PROMOTIONAL EXAMINATION: An examination for positions in a particular class, admission to which is limited to employees in the classified service or exempt Employees who have previously

served in the classified service who meet the qualifications set forth in the announcement of the examination

4.44 PROMOTIONAL LIST: A list of persons arranged in descending order of their final ratings on examinations for classes of positions for which they competed in promotional examinations and to which they are qualified for appointment to higher positions.

4.45 PUBLIC NOTICE: Posting notice by position on the public bulletin board outside of the Benton County Personnel Resources Department (Benton County Justice Center, Second Floor, 7122 W. Okanogan Pl., Bldg. A, Kennewick, Washington, 99336), or by publication in a newspaper having general circulation, or by publication in the official Benton County newspaper, or by listing (posting on-line) on the Benton County website.

4.46 QUIT: Any voluntary separation of an Employee from the Benton County Civil Service without acceptance of a resignation by the Appointing Authority.

4.47 REALIGNMENT: An adjustment to the salary range of an existing classification based on external market salaries, internal salary relationships and/or a change in the concept of the classification.

4.48 REALLOCATION: The allocation of a position to a different class in the Classification Plan.

4.49 RECALL: Return to employment from an active Recall List

4.50 RECALL LIST: A list of regular Employees who were laid off and or demoted in lieu of layoff who are eligible for recall to the classification from which laid off.

4.51 RECLASSIFICATION: Assignment of a position to a new classification based on a change in duties or responsibilities.

4.52 REDUCTION: The removal of an Employee from a higher class to a lower class in the Classification Plan.

4.53 REEMPLOYMENT: Appointment of a former, regular Employee to a position in the Classified Service from an Eligibility List or to a position in the unclassified service.

4.54 REEMPLOYMENT LIST: An employment list established by listing former regular or probationary Employees, in good standing, who have been separated from the Classified Service.

4.55 REGULAR STATUS: An Employee has attained regular status when he\she has successfully completed the original probationary period for any classification in the classified service.

4.56 REINSTATEMENT: Reappointment of a regular Employee to a position in a class in which he/she had previously attained regular status

4.57 RESERVE DEPUTY PREFERENCE: Preference granted to eligible Benton County Deputy Sheriff Deputies in Examinations as provided for in these rules or applicable laws and ordinances.

4.58 RESIGNATION: A written request by an Employee for separation from a class or from the Benton County Civil Service. To be valid, such request must show written approval of the Appointing Authority.

4.59 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 lay-off.

4.60 RETIREMENT: The termination of employment for service or disability pursuant to applicable retirement laws. *See,* Rule 20.01.

4.61 SALARY RANGE: The minimum and maximum salary range of a given position or class.

4.62 SECRETARY: The Secretary/Chief Examiner appointed by the Commission. *See,* Rule 3.01.

4.63 SENIORITY: 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 lay-off.

4.64 SERVICE-CONTINUOUS: Service in a regular position since the last date of hire and excluding unpaid leaves of absence of fifteen (15) days or longer. Continuous service includes paid leave, military or Peace Corps leave, disciplinary suspensions of less than fifteen (15) days and leave due to occupational injury or illness.

4.65 SERVICE-TOTAL: The total period of employment based on the first date of hire in a regular position or classification, including leaves of absence and service preceding reinstatement and reemployment, excluding the break in service.

4.65 STANDING-REGULAR: The full Civil Service status of a regular Employee.

4.66 SUSPENSION: Temporary removal on an Employee from employment, with or without pay, for cause, or pending determination of charges against the Employee which could result in discipline up to and including demotion or discharge.

4.67 TIME: In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall be not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a Benton County holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday or a Benton County holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and Benton County holidays shall be excluded in the computation.

4.68 TRANSFER: Transfer of an Employee to a new classification having the same maximum salary.

4.69 UNCLASSIFIED SERVICE: The positions in Benton County that are not subject to civil service and are identified as exempt positions, assignment levels, or other position authorized by law.

4.70 VACANCY: A funded position which is not occupied.

4.71 VETERAN: A person who has performed active military service with an honorable or medical discharge as substantiated by DD-214 (RCWs 41.04.005, 41.04.007 and 41.04.010, all as amended).

4.72 VETERAN'S PREFERENCE: Preference in examinations and employment, based on military service, as provided and defined by applicable laws.

4.73 WRITTEN NOTICE: The service of a notice in writing either on the person or directly by certified mail. In case of service by certified mail, the notice must be deposited in the United States mail with postage prepaid and addressed to the person on whom it is to be served at his/her last known address as it appears in the records of the Civil Service Commission. Such service shall be deemed completed at the time of deposit in the United States mail and it shall be presumed received within

five (5) days of that deposit. Saturdays, Sundays and legal holidays shall be excluded in the computation of time.

## 5. RULE-MAKING

5.01 AMENDMENTS 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, unless upon emergency declared by all Commissioners present, amendment to these rules shall be first discussed in an open regular or special meeting at least one (1) meeting prior to adoption. Upon declaration of emergency, a rule amendment may be adopted at the meeting at which the amendment is first proposed.

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 the enacting document.

5.05 COPIES OF RULES. An electronic 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 office of the County. A copy shall be maintained in the office of the Commission for public inspection, on the website: http://www.co.benton.wa.us 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, and applicable statutes. No Employee shall have a property interest in employment 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 System, and Employees are subject to these rules and amendments thereto.

## 6. CLASSIFICATION

6.01 CLASSIFICATION SPECIFICATION. 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 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 Board of County Commissioners; or may do so upon request of the Appointing Authority or an affected Employee if the Classification of such position has not been reviewed within the last twelve (12) months.

6.05 CLASSIFICATION OF POSITIONS.

6.05.01 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:

(a) The same descriptive title may be used to designate each position in the class;

(b) The same level of education, experience, knowledge, ability, and other qualifications may be required of incumbents; and

(c) Similar tests may be used to select incumbents.

6.05.02 All Classes involving the same character of work but differing as to level of difficulty and responsibility shall be assembled into a Class series.

6.05.03 Compensation or salary shall not be a factor in determining the classification of any position or the standing of any incumbent.

6.05.04 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 (2) 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.

6.05.05 It shall be the duty of responsible administrative officers to report to the Secretary any and all organization changes which will abolish or affect changes in existing positions or establish new positions. When an Appointing Authority requests the establishment of any new or additional regular position, or a change in allocation of an existing position, a request for such consideration shall be addressed to the Secretary, accompanied by a statement of the duties, responsibilities and qualification requirements of the position.

6.05.06 ASSIGNMENT. Upon request of the Appointing Authority and with approval of the Secretary and Board of Benton County Commissioners, selected positions or assignments within a classification may be designated for premium pay above the compensation of the

base class. No permanent or vested rights shall be acquired by reason of assignment to such positions and such assignments shall be subject to review and change by the Appointing Authority at any time. This rule does not obviate rights pursuant to applicable collective bargaining agreements.

6.05.07 Classification changes are subject to the following approvals:

(a) Reallocation of positions within existing classifications: Appointing Authority, Secretary and County Administrator.

(b) New classifications or changes to the pay rates of existing classifications: Appointing Authority, Secretary and Board of Benton County Commissioners.

6.06 ALTERNATE STAFFING.

6.06.01 Selected positions may be established as alternately staffed at multiple levels within a classification series, *e.g.,* clerical staff. Positions may be classified in this fashion when the range of duties and responsibilities allows for the job to be performed with varying levels of responsibility and expertise, depending upon the qualifications and abilities of the incumbent.

6.06.02 Incumbents of alternately staffed positions may be promoted in the series without a competitive posting and examination process. Eligibility for promotion will be determined by the Appointing Authority based upon such factors as the employee's qualifications, job performance, length of service and demonstrated ability to perform effectively at the higher level. To be eligible for promotion, Employees in alternately staffed positions must meet the published qualifications for the higher class, and, if applicable, have passed the probationary period for their current classification level. Employees promoted within alternate classifications must serve a new probationary period of one (1) year.

6.06.03 Vacant alternately staffed positions may be filled at any level in the series depending upon the needs of the department and the qualifications of the Employee. Job postings to fill positions may be targeted to a specific level or, in the alternative, may accept Candidates at multiple levels.

6.07 PERSONNEL AND CIVIL SERVICE RECORDS.

6.07.01 The Secretary shall establish and maintain appropriate records of position, examination and Employee within the classified and unclassified civil service. The Appointing Authority shall maintain duplicate or additional records necessary for efficient administration of the Department. Contents of and access to, files and records, shall be in conformance with all applicable legal requirements.

6.07.02 It shall be the duty of each Appointing Authority to supply to the Secretary, in writing, all necessary information to enable the Civil Service Department to maintain such records

## 6.09 EFFECT OF CLASSIFICATION CHANGES ON INCUMBENT.

6.09.01 When a position is reclassified to a lateral classification having the same maximum salary, the incumbent shall be granted regular status in the new classification provided that he/she meets the minimum qualifications for the new classification. Probationary employees shall be required to complete the probationary period prior to receiving regular status. Seniority and service credit that is based on time in classification shall include time in the former and new classification. Changes should not adversely affect qualified incumbents, particularly in the area of seniority. All seniority (time spent) is carried forward to the new position classification.

6.09.02 When a position is reclassified to a higher classification, the Secretary may authorize Appointment without examination under the following conditions:

(a) The change in duties evolved over a period of time, generally six (6) months or longer.

(b) The incumbent has held the position and has satisfactorily performed substantially all of the duties for a period in excess of six (6) months.

(c) The incumbent meets all published qualifications for the new Classification

6.09.03 Upon request of the Appointing Authority and the concurrence of the Secretary, the incumbent of a job reclassified under Section 6.09.02(b.) may be appointed without the requirement of having to serve a probationary period in the new class.

6.09.04 In all other cases involving upward reclassification, the position must be filled *via* competitive examination. The incumbent may be continued in the position for a maximum of four (4) months on a temporary basis, pending examination. Where an established eligibility list exists, the Secretary may authorize a new examination in order to provide incumbents of reclassified positions the opportunity to compete.

6.09.05 Whenever a position is reclassified from one class to a lower class, the regular incumbent may, with the concurrence of the Appointing Authority, elect to take a voluntary reduction to the lower class; or at his/her option and with the concurrence of the Appointing Authority, 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 has regular standing.

6.09.06 Incumbents who are not successful in retaining their positions through competitive examination shall be handled *via* the procedures in Rule 14, Layoff, herein.

## 6.10 UNCLASSIFIED SERVICE.

6.10.01 Assignment to a position in the unclassified service, carrying additional salary, duties and responsibilities, may be made by the Appointing Authority, from any position in the Classified Service and from any outside source.

(a) Any classified Employee having civil service status in a position may take an Appointment in the unclassified service and maintain the right to return to his/her regular position or to a like position, within thirty (30) calendar days of the expiration of such Appointment

(b) Seniority of an Employee returning to his/her formerly held classified position or similar position, shall be calculated based on time spent in the unclassified position combined with the time spent in the formerly held classified position to which reinstatement is requested.

## 7. APPLICATIONS AND APPLICANTS

### 7.01 GENERAL REQUIREMENTS FOR FILING APPLICATIONS.

7.01.01 All Applicants for examinations for positions in the classified Civil Service must submit a written application in the form prescribed by the Secretary; 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.

All Applicants must meet the requirements specified in these rules and in the official classification description of the position as of the closing date of the official filing period.

All Applicants for a position of any kind in the Classified Service must be a citizen of the United States, who can read, write and speak the English language.

7.01.02 In order to submit an application for examination, the Applicant must produce evidence of education, training, experience, or any lawful requirement for a class, as directed by the Secretary.

7.01.03 Time for submitting applications:

(a) All applications shall be submitted (including by mail, courier, email, facsimile, scan, electronic, hand delivery) to the Secretary 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. The Secretary may designate in the official bulletin, that applications must be received on or before the closing date.

(b) The time for filing applications may be extended by the Secretary as the needs of the service require; PROVIDED: the examination shall then be re-advertised.

7.01.04 Applicants are responsible for notifying the Secretary of changes in contact information, including mailing address, email address and telephone number.

7.01.05 Confidential Applications. All applications are confidential. No information regarding applications shall be made public unless required by state, federal, or local, law or statute.

7.01.06 Application Fees. All Applicants for open competitive examinations may be required to pay a non-refundable, examination-processing fee. The Commission may set the amount of this fee from time to time.

An application shall not be considered received by the Commission until the appropriate application fee has been paid in full, as applicable.

The Appointing Authority may waive payment of the Examination fee for indigent Applicants who are able to provide proof of their indigence.

Examination fees, if any, may be waived for active military duty personnel, upon providing proof of current active military service.

7.03 APPLICATIONS FOR PROMOTIONAL EXAMINATIONS.

7.03.01 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 Section 7.01, has the requisite service credit with the office/department as designated in the official announcement and has completed the probationary period.

7.05 SPECIAL REQUIREMENTS.

7.05.01 The Secretary may prescribe such limits and such other specific requirements, physical or otherwise, as in the Secretary's judgment are required by and related to the work to be performed.

7.05.02 When designated on the official bulletins, the Secretary may permit filing by an applicant not more than six (6) months under the specified minimum age on an open examination and not more than three (3) months under the specified experience on a promotional examination. Probationers must successfully complete the probation period by the last day for accepting applications, in order to be eligible for promotional examinations. 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 an eligibility list or from Certification the name of an Eligible, or remove from an eligibility list the name of an Eligible if the Applicant or Eligible:

7.07.01 Does not meet the requirements set forth in these rules, the bulletin announcing the Examination or the Appointing Authority's recruitment standards;

7.07.02 Is physically or mentally unable to perform all of the essential functions of the position sought with or without reasonable accommodation, as applicable under federal and state law;

7.07.03 Has been convicted of any felony or a misdemeanor involving moral turpitude (*see* chapter 9.96A RCW);

7.07.04 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 County service; or has an unsatisfactory record of employment in the County service, or with any other agency or firm;

7.0705 Has made any material false statement or has attempted any deception or fraud in connection with this or any other civil service examination;

7.07.06 After notification, did not promptly appear at the time and place designated for the Examination or any other appearance required in conjunction with the Examination, Certification or Appointment process.

7.07.07 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;

7.07.08 Has been discharged from the United States Armed Forces under dishonorable conditions.

7.07.09 Such actions contemplated by this rule may also be taken for other material reasons.

7.07.10 Engaged in conduct, or failed to act as required, in violation of the Appointing Authority's recruitment standards. No charge or conviction required.

7.09 DEBARMENT FROM EMPLOYMENT.

7.09.01 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 and the Appointing Authority, subject to review by the Civil Service Commission.

(a) Candidates, who have committed a detected or undetected misdemeanor while employed in *non-sworn* law enforcement or related law enforcement environments, will not be automatically disqualified and shall be *considered* for employment provided that no further incidents have occurred within the last ten (10) years from the date of the original incident.

7.09.02 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 this chapter shall be notified promptly by Civil Service of the reasons therefore by either oral notice and/or written notice mailed to the Applicant or Eligible. When oral notice is given, the follow-up written confirmation must include the date and time of oral notice.

7.13 ADMISSION TO EXAMINATION PENDING APPEAL. At the discretion of the Secretary, an Applicant whose application was not accepted, may be admitted to the Examination pending final disposition of an appeal, such admission to be without prejudice to either the County or the Applicant.

7.15 AMENDMENT OF APPLICATION. At the discretion of the Secretary, an Applicant may be permitted to amend or add to his/her application after acceptance.

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.

## 8. EXAMINATIONS

8.01 ORDERING EXAMINATIONS. The Commission will order an Examination whenever it is deemed to be in the best interest of the County. The Secretary or designee shall administer Examinations as provided by these rules.

8.03 EXAMINATION ANNOUNCEMENT. Public notice of Examinations, where required, will be given by the Secretary and applications shall be accepted for a minimum of ten (10) days. The official announcement will be posted in the Commission's office and posted on the County's website.

Public notice is not required for promotional examinations open only to current employees of the Benton County Sheriff's Office.

8.05 AMENDMENTS TO ANNOUNCEMENTS. The Secretary may amend any published announcement with appropriate public notice.

8.07 CONTINUOUS EXAMINATIONS.

8.07.01 A continuous or periodic examination may be ordered and administered by the Secretary for any class of positions for other than promotional Examinations. The Secretary may close the filing period at any time after ten (10) days, when a sufficient number of applications from qualified Candidates are received. 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 eligibility list and certifications for Appointments shall be made in the same manner as from any Eligibility List. Names of Eligibles from successive Examinations in the same program shall be entered on the Eligibility List for the class at the appropriate places as determined by final grades. The final grade for an Applicant who repeats any part of an examination will be based on the latest test results. Names may be withheld from certification or removed from such eligible registers in the same manner and for the same reasons as from any Eligible register.

8.07.02 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 any or all of the following; review of standard or supplemental applications, written tests, physical or performance tests, oral interviews, assessment centers, or any other suitable evaluation of job fitness. 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 component of the Examination shall be weighted and scored in a manner consistent with contemporary principles of employee selection and applicable legal requirements and guidelines. Scoring techniques may include scored Examinations, Examinations graded on a pass/fail basis, ranking or other such options. Scoring options utilized may include "band" scoring where Candidates' scores are defined as a number of bands (*e.g.*, "Exceptional,

excellent, very well qualified, well qualified, etc.") reflecting their overall level of fitness for employment. The Secretary shall establish the number of scoring bands to be utilized consistent with contemporary selection principles.

8.15 PASSING GRADES.

8.15.01 The Secretary shall establish the final minimum passing score required for any Examination in which a raw score is utilized.

8.15.02 In oral interviews and assessment center Examinations, the Secretary may authorize the evaluating panel to determine which Candidates are to be considered recommended or not recommended for consideration for final Appointment. Only the names of recommended Candidates shall be entered on the Eligibility List.

8.19 PROMOTIONAL EXAMINATIONS. Vacancies shall be filled by Promotion whenever practical in the judgment of the Commission, when, in the judgment of the Secretary and with the concurrence of the Commission, an adequate pool of current regular Employees who are qualified exists within the Office/Department of the County. Examinations may be announced as promotional and eligibility restricted to internal Candidates who have attained regular status in a lower Classification. In such cases, the Examination may be announced as a county-wide promotional Examination restricted to the Sheriff's Office or further restricted as provided below.

8.19.01 Upon showing from an Office/Department that special training and knowledge gained within a work unit or job family is essential to the proper filling of the vacancy, the Commission may limit an examination to a promotional within a work unit or within the specific job family or career ladder, *e.g.,* only Corrections Officers are eligible for Corrections Sergeant positions.

8.19.02 Promotional recruitments may be further restricted to Employees of a particular job classification and/or work unit when the new position results from reclassification of a position in that Classification and/or work unit as provided by Rule 6.09.04.

8.23 VETERANS' CREDIT. Veterans, who have passed an Examination, shall be entitled to credit pursuant to chapter 41.04 RCW.

8.29 KEYED COPY INSPECTION AND EXAMINATION PROTEST.

8.29.01 Any protest against the job relatedness of any part of an Examination shall be filed in writing with the Secretary within three (3) business days immediately following the administration of such part, or within the time limit specified on the Examination instruction sheet.

8.29.02 No keyed copy will be provided for inspection on standardized tests or on continuous or periodic Examinations. When a keyed copy is provided, protests against the proposed keyed answers must be filed in writing within three (3) business days or the time limitation specified on the Examination instruction sheet.

8.29.03 Any protest against scoring or any allegation of clerical error in the final results of an Examination must be filed in writing within three (3) business days after the notices of results have been provided. When oral notice is given, the follow-up written confirmation must include the date and time of oral notice.

8.29.04 All protests filed in accordance with this rule shall be considered and any proper corrections made. If authorized corrections are applicable to other examinees, the corrections shall be made on all Examination papers affected.

8.31 CORRECTION OF CLERICAL ERRORS. Any clerical error may be corrected by the Secretary upon discovery at any time during the life of the Eligibility list, but no such correction shall affect an Appointment made from a certification prior to the correction.

8.35 REEXAMINATION. No one shall be reexamined for the same class within six (6) months of the effective date of such Examination, unless authorized by the Secretary upon determination that it would be in the best interest of the County.

8.37 EXAMINATION MATERIALS. Examination materials of each eligible shall be kept on file in the office of the Commission until the expiration of eligibility or as required by state or federal records retention laws.

8.39 POSTPONEMENT OR CANCELLATION OF EXAMINATIONS. An Examination may be postponed or cancelled at the discretion of the Commission or Secretary or Chief Examiner. In either case, each Applicant will be notified of the postponement or cancellation by mail, hand delivery, in person, telephone, email or facsimile transmission.

8.41 MAKE-UP EXAMINATIONS. An Applicant who is unable to take the regular Examination as scheduled, may be given a special Examination upon written request. Such Applicant must submit a written request setting forth the reasons requiring the absence, and provide documentary evidence which demonstrates the Applicant was unable to take the regular Examination as scheduled.

The following are the only reasons for granting a special Examination time for an entry-level examination:

8.41.01 Separating/returning from military duty. The Applicant must provide a copy of their separation papers no later than ten (10) days from termination of such military duty; or

8.41.02 Receipt of military orders requiring the Applicant to report for active duty. The Applicant must provide a copy of their orders at the time of the request; or

8.41.03 Absence from the test within one (1) week after the death of a spouse, domestic partner, mother, father, sibling, child, or child of spouse or domestic partner, of such Applicant.

The following are the only reasons for granting a special examination time for a promotional examination:

8.41.04 Separating/returning from military duty. Applicant must provide a copy of their separation papers no later than ten (10) days from termination of such military duty; or

8.41.05 Receipt of military orders requiring the Applicant to report for active duty. Applicant must provide a copy of their orders at the time of the request; or

8.41.06 Compulsory attendance before a court or other public body or official having the power to compel attendance; or

8.41.07 Mandatory departmental training; or

8.41.08 Absence from the test within one (1) week after the death of a spouse, domestic partner, mother, father, sibling, child, or child of spouse or domestic partner, of such Applicant.

8.43 PREFERENCE POINTS.

8.43.01 Employees. Applicants who are currently employed full time with the Benton County Sheriff's Office for twelve (12) months or longer, in good standing and not on probation, may be eligible for an additional five percent (5%) preferential bonus points added to their score, provided they received a passing grade of seventy percent (70%) or better.

(a) Employee preference points cannot be combined with any other bonus points or credits concurrently.

(b) The Secretary/Chief Examiner or designee shall confirm with the Benton County Sheriff's Office the status of the Applicant.

(c) The award of bonus points is at the discretion of the Appointing Authority and with the approval of the Commission.

8.43.03 Reserve Deputies. Benton County Reserve deputies in good standing who test for entry-level deputy or entry-level/lateral corrections officer may be eligible for an additional five percent (5%) preferential bonus points added to their score, provided they have received a passing grade of seventy percent (70%) or better.

(a) A Benton County Reserve Deputy must: have successfully completed the Reserves Officers Training Academy; is a state certified as a Reserve Officer; and, currently maintain the required number of hours of work per month.

(b) Reserve Deputy bonus points cannot be combined with any other bonus points or credits concurrently.

(c) The Secretary/Chief Examiner or designee shall confirm with the Benton County Sheriff's Office the status of the applicant.

(d) The award of bonus points is at the discretion of the Appointing Authority and with the approval of the Commission.

8.43.05 Veterans. Applicants who have served in any branch of the United States Armed Forces and qualify as "veteran" in accordance with RCW 41.04.050 and 41.04.070, shall be given preference status by adding to their passing score a numerical value equal to a percentage of the final score attained, in accordance with RCW 41.04.010, as described below.

(a) In accordance with RCW 41.04.010, all veterans' scoring criteria may be claimed upon release from active military service. To receive such credit, a Department of Defense Certification Number DD2-14 must be presented.

(b) In addition, Applicants must certify that they have not previously obtained employment using such veterans' preference. These extra preference points are valid only on the initial employment appointment from the State of Washington or any political subdivision, municipal corporation, or private companies or agencies as prescribed in RCW 41.04.010.

(c) Applicants claiming veterans' preference for Benton County must sign a Veteran's Preference Eligibility Form provided by the Chief Examiner or Secretary when presented, for affirmation.

(d) Qualified veterans may be eligible for an additional ten percent (10%) or five percent (5%), added to their score, provided they have received a passing grade of seventy percent (70%) or better, and only on their first, initial hire examination.

(e) No further veterans' preference will be added to any additional examinations within Benton County Civil Service, including promotional, EXCEPT:

i. For provisions defined in RCW 41.04.010 for a veteran who is recalled to active military service for one (1) or more years from employment with the state or any of its political subdivisions or municipal corporations. The percentage shall be added to promotional examinations until the first promotion only.

8.45 TEST ADMINISTRATION. Possession of, or access to, any outside information, during the test, or any attempt to copy from a competitor, shall be considered improper conduct and grounds for immediate disqualification for the position for which the test is rendered. This disqualification shall be in effect for a period specified by the Appointing Authority, with the concurrence of the Commission, but not to exceed twenty-four (24) months.

The Chief Examiner or designated Examination Administrator may disqualify an applicant who is suspected or improper conduct during the course of the examination. The Chief Examiner or Examination Administrator shall: refuse to allow the Candidate to continue testing; gather the Candidate's test material; and, order the Candidate to vacate the premises.

## 9. ELIGIBILITY LISTS

9.01 ESTABLISHMENT OF ELIGIBILITY LISTS. After each Examination, an Eligibility List for the class shall be prepared on which the names of successful Candidates shall be ranked in order of score, including any additional points allowed by law or these rules for reserve officers or veterans' credit. Individuals participating in the Examination on a delayed eligibility basis shall be certified in order of rank when they have attained full eligibility for Appointment.

9.03 RETURN TO ELIGIBILITY LIST FOLLOWING LAYOFF. Employees who have been laid off and whose period of recall eligibility has expired may request that their name be restored to the eligibility list for the class from which they were laid off. Such request must be made within one (1) year of the expiration of recall eligibility. The Chief Examiner or Secretary will approve such requests provided the employee separated from service in good standing and the appointing authority approves. The employee's name shall be restored to the current and successive lists in order of original score for a maximum of one (1) year from the date of the restoration.

9.04 RESCINDED OFFER OF EMPLOYMENT. When an offer of employment is rescinded due to shortage of funds or budget adjustments by the Board of Benton County Commissioners, whether or not Candidates have completed the post-offer process, shall have their names restored to the current and successive lists in order of original score for a maximum of one (1) year from the date of restoration to the list.

9.05 ALTERNATIVES TO ELIGIBILITY LIST APPOINTMENTS.

9.05.01 As an alternative to Appointment from the current eligibility list for a class and/or competitive examination, the Appointing Authority may fill a vacancy by any of the following means:

(a) Transfer of an Employee from a position in the same or lateral Classification provided the Employee meets the qualifications for the Classification. Transferred Employees shall be placed at the same step in the new range.

(b) Demotion of an Employee from a higher classification provided the Employee meets the qualifications for the classification. Demoted Employees shall be placed at the highest step in the new range not exceeding the former salary.

(c) Reinstatement of a former Employee, who attained regular status in the classification, left Benton County service in good standing and the reinstatement is effective within one (1) year of separation. Reinstated Employees shall be placed at the step number and not necessarily salary level previously attained prior to separation. Time served at the former step shall be applied toward eligibility for the next step increase. Additionally, if a vacancy exists, and with the approval of the Appointing Authority, reinstatements may be made to a lower Classification for which the Employee has attained regular status and which is in the same career ladder/series as the last position held.

(d) Transfer or demotion of an Employee who has a qualified disability under the ADA or state law and who successfully meets the minimum qualifications for a position. Employees who are reasonably accommodated will be placed at the highest step in the new range that is equal to or below their former salary. If the former salary exceeds the maximum of the new range, the Employee shall be placed at the top step of the new range.

(e) Absorption of an Employee as a result of the Sheriff's Office absorbing the function which that Employee performs. An Employee added to the Sheriff's Office in this fashion shall be placed at the highest step in the new range that does not exceed his/her former salary. If the former salary exceeds the maximum of the new range, the Employee shall be placed at the top step of the new range.

(f) Conversion of a temporary Employee to regular status, when he/she has held a temporary position in excess of one thousand, forty (1,040) hours and subsequently that position, responsible for the specific functions formerly performed by the temporary Employee, is converted to a regular classified position. Temporary Employees may be converted without competitive process under this subsection, at the discretion of the Sheriff or designee. An Employee added to the Sheriff's Office in this fashion shall be placed at the highest step in the new range that does not exceed his/her former salary. If the former salary exceeds the maximum of the new range, the Employee shall be placed at the top step of the new range.

9.05.02 When there is no current eligibility list for a classification, the Secretary, with approval of the Appointing Authority, may authorize Certification from an alternative list, provided however; that the qualifications and Examination used for the alternative class can be construed to adequately address the requirements of the class to which appointment is desired. This procedure may only be used for appointment to a lower or lateral Classification.

9.05.03 Upon recommendation of the Appointing Authority and passing a qualifying Examination, Employees may be promoted to successive Classification levels within alternately staffed positions. The Chief Examiner or Secretary shall determine the appropriate Examination to determine eligibility for promotion. No positions or Classifications may be established as alternately staffed without approval of the Commission. Effective upon adoption of this rule, all civil service positions in the Sheriff's Office are deemed alternately staffed, subject to approval by the Board of County Commissioners and the collective bargaining requirements associated with chapter 41.56 RCW.

9.05.04 Except as otherwise provided in these rules, all appointments to positions in the classified service shall be made on the basis of competitive examination.

9.09 DURATION OF ELIGIBILITY LISTS.

9.09.01 Except as otherwise provided in this section, all open, competitive, Eligible registers/lists shall remain in effect for one (1) year from the effective date of their establishment. Promotional Eligibility Lists shall remain in effect for one (1) year from the date of their establishment.

9.09.02 With the approval of the Appointing Authority, an open or promotional register/list may be extended by the Secretary or Chief Examiner for a maximum of six (6) additional months.

9.09.03 When an Eligibility List is deemed by the Secretary to contain an inadequate number of qualified Eligibles to fill current and anticipated vacancies, the Secretary may authorize cancellation of the current Eligibility List and/or a new Examination, with Eligibles from the new list merged with those on the existing list based on score. The minimum duration of an Eligibility List shall be six (6) months for an open list and twelve (12) months for a promotional list.

9.09.04 Employees on current Eligibility Lists may extend their eligibility through reapplication for subsequent examinations. When this is the case, their position on the list shall be based on the last score received. If an Employee elects not to re-take an Examination, their employment eligibility shall terminate upon expiration or cancellation of their Eligible List.

9.09.05 When an Eligible Candidate in good standing is activated into the military, his/her remaining time on the Eligibility List shall be frozen until he/she successfully completes the military commitment and is available for civilian employment. Candidates must request that this rule be invoked by providing a written request, and an estimated date of release from military. Application of this rule has a maximum time period of up to one (1) full calendar year from the date of when a Candidate has been activated into military status.

9.11 AVAILABILITY OF ELIGIBLES.

9.11.01 It shall be the responsibility of an Eligible to notify the Civil Service Department 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.

9.11.02 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 Eligibility List modifying conditions under which employment would be accepted.

9.13 CANCELLATION OF ELIGIBILITY:

9.12.01 An Eligible's name may be removed from an Eligibility List for failure to pass a required Examination or upon receipt of proof of material physical or mental disability or other 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 the County or previous employers may be the basis for removal if such would have provided the basis for dismissal from Benton County service.

9.13.02 An Eligible's name may be removed from the Eligibility List for other reasons, including:

(a) Failure to respond to inquiries or notices from the County

(b) Refusal to accept two (2) consecutive offers of employment, except as provided in Section 9.13.05.

(c) Rejection by the Appointing Authority after three (3) successive certifications to vacant positions, in such circumstances the Office must notify the Benton County Personnel Resource Department within ten (10) calendar days in order that Candidates may receive timely notification of standing.

(d) Upon receipt of proof of fraudulent conduct, bad character, conviction of a felony or misdemeanor involving moral turpitude, or any other act or condition which, in the judgment of the Appointing Authority, Chief Examiner, Secretary or Commission, is sufficient to demonstrate the Eligible is unsuitable for employment with the Benton County Sheriff's Office.

(e) For cause as determined by the Appointing Authority and approved by the Commission.

(f) The names of person on promotional registers/lists who resign from the service shall automatically be dropped from such registers/lists upon registration.

9.13.03 Such action contemplated by this rule may also be taken for other material reasons.

9.13.04 Separation from the service shall terminate promotional eligibility.

9.13.05 Open or promotional Eligibles may request that their name be placed on an inactive list due to temporary disability or unavailability for employment or place reasonable restrictions on the types of positions for which certified, *e.g.*, selected shifts or geographic assignments. When such requests are approved by the Secretary or Chief Examiner, the Eligible shall only be certified within the limits specified and failure to certify shall not jeopardize eligibility based on the disqualifications in Section 9.13.02 (a) above.

9.14 PROVIDING INFORMATION TO CANCELED ELIGIBLES. When notifying an Eligible of removal from the Eligibility List, the basis for the removal shall be included in the correspondence. Although certain aspects of the testing materials contain confidential or privileged information, the applicants will be provided with reasonable, general information as to the basis for the removal. Names of individuals, statements from past employers and diagnosis revealed in psychological or medical evaluations will not be released to Candidates.

9.15 RESTORATION OF NAMES TO ELIGIBILITY LISTS. The name of an Eligible which has been removed from an Eligibility List may be restored upon written request to the Secretary or Chief Examiner for such restoration. The request must specify the reasons for the requested restoration. The Chief Examiner or Secretary may approve the request if it is deemed that the evidence submitted justifies such approval.

9.16 REAPPLICATION OF NAMES REMOVED FROM ELIGIBILITY LISTS. When a person is removed from an Eligibility List for cause as indicated in Section 9.13 - CANCELLATION OF ELIGIBILITY, such individual becomes ineligible to reapply for that position and all other classified positions within the Benton County Sheriff's Office for a period of eighteen (18) months from the date of written notification.

9.17 REVOCATION OF LISTS. An employment or promotional list may be revoked and another Examination ordered only when such action is deemed advisable because of fraud, error or obviously inappropriate standards prescribed in connection with the Examination, and plainly inadequate results obtained therefrom. No list shall be altered or revoked except upon written notice to all persons whose standing may be affected and upon entry of the reasons in the minutes of the Commission.

9.18 APPEAL. Whenever a person's name is removed from an Eligibility List, such person has the right to appeal, and must notify the Chief Examiner/Secretary in writing within ten (10) calendar days of receipt of notification. Written notifications must state the basis for the appeal.

## 10. CERTIFICATION AND APPOINTMENT

10.01 GENERAL PROVISIONS. Except as provided otherwise by these rules, vacancies in the classified civil service shall be filled by Certification and appointment following a competitive examination. Vacancies filled will be by reinstatement, promotional, appointment, assignment, original appointment, transfer, reduction or demotion.

10.03 REQUEST FOR CERTIFICATION. Whenever the 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 fileed, 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.

10.05.01 ELIGIBLE REGISTER. Certification to fill a vacancy shall be made by the Civil Service Department from registers/lists in the following order and as provided in this rule:

(a) Reinstatement

(b) Promotional

(c) Original (including lateral entry registry).

10.05.02 ORDER OF REINSTATEMENT—ELIGIBLE.

(a) If a vacancy is to be filled from the reinstatement register, the following shall be the order of certification:

(1) Regular Employees in the order of their length of service. The regular employee on such register who has the most service credit shall be first reinstated;

(2) Probationers, without regard to length of service. The names of all probationers upon the reinstatement register shall be certified together.

(b) Upon request from the Appointing Authority, the Secretary may authorize reinstatement out of such regular order upon a showing of efficiency or that such action is for the good of the service, after giving the Employees adversely affected an opportunity to be heard.

(c) Nothing in this rule shall prevent the reinstatement of any regular or probationary Employee for the purpose of transfer, to the same class or for voluntary reduction in class, as provided in these rules.

10.05.03 CERTIFICATION. If a vacancy is to be filled from a promotional or original register, the Secretary shall certify to the Appointing Authority the names of the three (3) available Eligibles that stand highest on the appropriate register/list.

10.05.05 MULTIPLE VACANCIES. If two (2) or more vacancies are to be filled from any of the above registers/lists other than the reinstatement register/list, the name of one (1) additional person shall be certified for each additional position.

10.05.07 ADDITIONAL NAMES. If an 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.

10.05.09 SPECIAL SKILLS. Where a certification of Eligibles with special experience, training, or skills is requested in writing by the Appointing Authority as being necessary for satisfactory performance in a particular position, and the Secretary determines that the reasons given fully justify the request, a certification may be made of only the highest ranking Eligibles who possess the special qualifications.

10.05.11 PRIOR SERVICE. If a temporary vacancy is to be filled from an open or a promotional register, those Eligibles with three (3) months of service who are shown on the register/list as having been laid off within the last twelve (12) months from the office in which the vacancy exists shall be placed in grade order at the head of the register/list of Eligibles for certification according to rule.

10.05.13 APPLICATION/EXAMINATION. The application and the Examination papers of a certified Eligible shall be available for inspection by the Appointing Authority.

10.07 DEFERMENT OF CERTIFICATION. The Secretary or Chief Examiner may grant deferment of Certification of an Eligible upon receipt from the Eligible of a written request with satisfactory reason therefore. Such deferment will thereafter prevent certification of such Eligible until the next vacancy occurring after the Eligible has given written notice of his/her desire to be returned to the Eligibility List, and such return has been approved by the Secretary or Chief Examiner.

10.09 DURATION OF CERTIFICATION. Certification shall be in effect for thirty (30) days from its date of issuance. The Appointing Authority must file a report of any appointment from such certification with the Secretary/Chief Examiner. Upon request, the Secretary/Chief Examiner may extend such certification for additional thirty (30 day) periods. Expiration of eligibility shall not cancel the validity of a certification.

10.11 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.

10.13 PROVISIONAL APPOINTMENT.

10.13.01 Where there is no suitable Eligibility List from which certification can be made, the Secretary or Chief Examiner may allow the Appointing Authority to make a provisional appointment. A provisional appointment may be made for a period of up to six (6) months, and may not be extended for a longer period of time. No person shall receive more than one (1) temporary appointment in any twelve (12) month period.

10.13.02 All provisional employment in a class shall cease at the earliest possible date and shall not exceed thirty (30) days from date of notice that a proper eligibility list for such class is available; provided, an extension may be granted by the Secretary or Chief Examiner upon satisfactory written showing by the Appointing Authority, if such extension will not cause the provisional appointment to exceed the four (4) month limitation.

10.14 TEMPORARY APPOINTMENT. An appointment from an eligible or promotional list in the usual manner, but to fill a position, the duration of which does not exceed five (5) months in any twelve (12) month period. In making such an appointment, the Appointing Authority shall make a requisition to the Secretary in the manner provided for regular appointment, but shall indicate the time at which it is estimated the position terminates. The Secretary or Chief Examiner will notify the person or persons appearing on the appropriate list, indicating the nature of the position and its duration, to learn who may be willing to accept temporary appointment. The names highest on the eligible register/official certification, willing to accept, shall be certified for appointment.

10.14.01 In the event of the need to fill a position for a limited duration not to exceed five (5) months, and there is either (a) no suitable Eligible register/list from which Certification can be made; or, (b) no eligible is willing to accept temporary appointment, the Secretary/Chief Examiner may authorize the Appointing Authority to make a temporary appointment.

10.14.02 In the event of the need to fill a position for a limited duration not to exceed five (5) months, and there is either (1) no suitable Eligible roster from which certification can be made; or, (2) no Eligible is willing to accept temporary appointment, the Secretary may authorize the Appointing Authority to make a temporary appointment.

10.14.03 No temporary appointment may be continued and no person may be employed on a temporary basis, for more than five (5) months in any twelve (12) month period. Temporary service shall not be credited to the probationary period or for calculation of service credit.

10.15 EMERGENCY APPOINTMENT: To meet the immediate requirements of an emergency condition which threatens life or property, the Appointing Authority may employ any persons or persons when they may be legally empowered to appoint. Such appointment shall be without restriction under these Rules. Emergency employment shall be limited in duration of the emergency period and shall in no event exceed thirty (3) days without Commission approval.

10.16 EXTENSION OF APPOINTMENTS: Notwithstanding the provisions of Sections 10.13 and 10.14 above, and in recognition of the staffing issues created by disability leave and retirement programs under chapter 41.14 RCW, military service leaves, and other programs, the Commission may extend provisional and Temporary Appointment authority beyond five (5) months upon application of the Appointing Authority. Such an extension may be granted when a position is vacant as a result of a disability leave, active military service, or such other reason as the Commission finds may preclude a timely and regular appointment.

10.17 APPOINTMENTS TO VACANCIES RESULTING FROM REGULAR EMPLOYEES ON INDEFINITE MILITARY LEAVE OF ABSENCE. A position vacant as the result of a regular employee on indefinite military leave shall be considered as a permanent position and shall be filled in the manner provided for in these rules. However, if an eligible that is on the eligibility list is recalled or enlists, his/her position on the list may be frozen until his/her return, subject to review of military status.

## 11. PROBATION

11.01 PROBATIONARY PERIOD.

11.0101 All full-time or part-time regular appointments from an Eligibility List shall require successful completion of a probationary period. The probationary period shall be considered as the final portion of the examination process and shall be used to evaluate the qualifications, conduct and performance of employees.

11.01.02 Except as provided in Section 11.07, below, transfers and demotions to a new classification shall require successful completion of a new probationary period. [In the same class from one office to another, the receiving office/department may, with the approval of the Secretary, require that a complete probationary period be served in that office.]

11.01.03 A regular Employee who has been voluntarily or involuntarily demoted to a lower classification within the same job family, shall not be required to serve a new probationary period in the lower classification.

11.03 LENGTH OF PROBATIONARY PERIOD. The period of probation shall be equivalent to twelve (12) months of full-time service following appointment from an eligibility list. Minor absences due to vacations, annual military leave, illnesses, etc., shall not be construed as interrupting the probationary period, provided however, a minimum of one thousand, eight hundred, twenty-four (1,824) regular paid hours (or the pro-rated equivalent for part time Employees) shall be required for completion of the probationary period. The probationary period shall be extended as necessary to meet this requirement.

11.05 INTERRUPTION OF PROBATIONARY PERIOD BY MILITARY SERVICE: A probationer who engages in active military service on an 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 SERVICE IN ANOTHER CLASS. Upon request of the Appointing Authority and with the approval of the Secretary/Chief Examiner, service in another lateral or higher classification may be credited toward completion of a probationary period when it can be determined that the Employee's service in the former classification adequately demonstrates the employee's qualifications and performance in the new Classification. [If the Secretary/Chief Examiner has approved the written statement of the Appointing Authority to the effect that the probationary period may be properly judged on the basis of service in the other class or office].

11.09 PROBATIONARY DISCHARGE OR DEMOTION.

11.09.01 The Appointing Authority may discharge any Employee serving an original probationary period. Such action need not be based on just cause and shall not otherwise be reviewed by the Commission, except as provided in Section 20.01.

11.09.02 An Employee serving a promotional probationary period may be demoted to his/her former classification on the basis of unsatisfactory performance in the higher classification. Such action shall not be subject to the just cause standard or review by the Commission. A promotional probationary Employee who is discharged or otherwise disciplined shall be entitled to appeal the discipline to the Commission.

## 12. SERVICE CREDIT

12.01 Except as otherwise defined in these rules, service and seniority shall be defined as follows:

12.01.01 For retirement and accrual of paid leave, an Employee's length of service shall be based on the last date of hire in a regular position with Benton County. For retirement purposes, Employees who separate from Benton County service and are reemployed shall be given credit for the prior service in accordance with the rules and procedures of the applicable retirement system.

12.01.02 For layoff service and step increases, an Employee's length of service shall be based on all continuous active employment within the Employee's current classification.

12.01.03 Employees shall continue to accrue service credit during any period of paid leave or during unpaid leaves of absence of less than fifteen (15) calendar days. Employees shall also accrue service credit during military, Peace Corps, US Public Health and industrial injury leave as and to the extent required by state and federal law.

12.01.04 Employees shall maintain, but not accrue, service credit during unpaid leaves of fifteen (15) days or more or while on an active recall list provided that the Employee is recalled to service in a regular position.

12.01.05 Employees who resign and are reinstated under Section 9.05 or who are recalled from an active layoff list shall receive credit for service prior to resignation. All other service prior to a break in service caused by termination shall be lost.

12.02 Service credit for salary step increases shall be based on the date of the Employee's appointment or promotion to the current classification. Upon reclassification, lateral transfers or demotions, the Employee's eligibility date shall remain unchanged.

## 13. TRANSFER-REDUCTION

13.01 GENERAL. The transfer of an Employee shall not constitute a promotion in the service, except as provided in Rule 13.03.04, below.

13.02 INTRA-OFFICE TRANSFERS. The Appointing Authority may transfer an Employee from one position to another position in the same class in the same office without prior approval of the Secretary, but must report any such transfer to the Civil Service Department within five (5) days of its effective date.

13.03 PROCESS. Transfers may be made upon consent of the Appointing Authority and with the Secretary's approval as follows:

13.03.01 Transfer in the same class; such a transfer may be made concurrent with the appointment of an Employee to another class;

13.03.02 Transfer to another class in the same in case of injury in line of duty either with Benton County service or with the armed forces in time of war, resulting in permanent, partial disability, where a showing is made that the transferee is capable of satisfactorily performing the duties of the new position;

13.03.03 Transfer, in lieu of layoff, may be made with limited standing to a single position in a lower class, upon showing that the transferee is capable of satisfactorily performing the duties of the position and that a regular Employee or probationer is not displaced. Regular standing in the new class may be attained by the Employee only through examination and permanent regular appointment.

13.03.04 Transfer, in lieu of layoff, may be made with limited standing to a single position in another class when such transfer would constitute a promotion or advancement in the service; provided, a showing is made that the transferee is capable of satisfactorily performing the duties of the position and that a regular Employee or probationer is not displaced and when transfer in lieu of layoff under Rule 13.03.03 is not practicable. Regular standing in the new class may be attained by the Employee only through examination and permanent regular appointment.

13.03.05 The Secretary may approve a transfer under this Rule 13.03, with the consent of the Appointing Authority, upon a showing of circumstances justifying such action.

13.04 LIMIT OF RULE. These rules have no authority or effect on positions or departments and offices not subject to the Civil Service. Transfer to or from positions or departments or offices not subject to the Civil Service are unaffected by these rules.

13.05 REDUCTION.

13.05.01 AUTHORIZED. As defined in Rule 4.52, a reduction is the movement of an Employee from a higher class to a lower class of employment for reasons other than cause. A reduction may be made only upon an Employee's written request, and consistent with these Rules.

13.05.02 APPLICABLE CLASSES. A reduction may be approved for:

(a) the next lower or any lower class in the Class Series containing the class from which reduced;

(b) any lower class in which the Employee has previously acquired Regular Standing, provided there has been no intervening forfeiture; or

(c) any lower class which is substantially similar to any lower class (in the employee's current class series) in the position classification plan; or

(d) Employees seeking return to employment or reemployment from a disability, to a vacant position in another permissible class for which the Employee qualifies.

13.05.03 PROCEDURE.

(a) A request for reduction must be submitted in writing to the Secretary. The request must include statement of justifiable or satisfactory reason, including a showing that the employee meets the qualifications of the lower class.

(b) The reduction must be approved by the Appointment Authority and reported to the Commission.

(c) The reduction shall take effect on the date ordered by the Secretary.

13.05.04 EFFECT OF REDUCTION.

(a) Upon the effective date, or following satisfactory completion of any trial period, the reduction shall be complete and the employee shall have Regular Standing in the lower class and department to which reduced.

(b) An Employee reduced shall be able to return to the former position only by examination and regular appointment. In the event of a recovery from disability, an Employee reduced in class may be eligible for appointment from a reinstatement register/list.

13.05.05 REDUCTION AVAILABLE.

(a) Bv Employee. A voluntary reduction may be sought by an Employee for any vacant position in a class under Section 13.05.02.

(b) By Department.

(1) Employees with Standing. Reduction involuntarily of an Employee from a higher civil service class to a lower civil service class is governed by Rule 13, Layoff. Return of an Employee from an exempt position to a Civil Service position is governed by Rule 15, Leaves of Absence.

(2) Employees without Standing;. When an employee is reduced from an exempt position, the Employee may petition in writing the Commission within ten (10) days of the end of employment in the exempt position for placement on a reinstatement register for a class for which the Employee is deemed eligible. In considering the placement of the Employee, the Commission may consider the employee's experience, the record of County employment, or such other factors as deemed in the best interest of the System. The Commission's decision shall be deemed permissive and discretionary, and an Employee shall have no claim or cause for denial of placement on a reinstatement register.

13.05.06 The Commission may, in its judgment and discretion, provide in the order granting or approving any reduction, that the Employee shall serve a designated trial period, not to exceed one (1) month's service from the effective date of the reduction, in the position to which reduced for the sole purpose of satisfying the Commission that Employee is capable of satisfactorily performing the functions and duties of such position or class. PROVIDED: the Commission may for cause shown, at any time during the prescribed trial period, extend, shorten, modify or waive in whole or in part the duration or balance of such period.

## 14. LAYOFF

14.01 The Appointing Authority may lay off any employee in the Classified Service whenever such action results from shortage of work or funds, the abolition of a position because of changes in organization, budget adjustments directed by the Board of County Commissioners or other reasons outside the Employee's control of a non-disciplinary nature; HOWEVER, no regular employee shall be laid off while there are temporary, provisional or probationary Employees serving in the class for which the regular or probationary Employee is eligible and available.

14.03 Layoff of regular Employees shall be made in inverse order of seniority in the classification. The Sheriff or designee may authorize layoff out of seniority order pursuant to the applicable collective bargaining agreement, when authorized by the Secretary, when there is a showing that an Employee who would otherwise be laid off possesses critical skills or training required for the continued operation of the department. An Employee who is laid off by virtue of the exercise of this option may appeal the decision to the Commission. In the event that there are two (2) or more Employees eligible for layoff with the same service in the Classification, the order of layoff shall be based first on total service in the Sheriff's Office and then, total Benton County service.

14.05 Provisional and temporary Employees shall be laid off prior to the layoff of probationary employees and in any order determined by the appointing authority. Employees serving an original probationary period shall likewise be laid off in an order determined by the appointing authority based upon demonstrated performance and qualifications. The names of probationary Employees laid off under this section shall be entered on the eligibility list for the classification from which they were laid off in order of seniority and shall be certified to available vacancies ahead of outside candidates but otherwise in accordance with these rules. Probationary Employees shall be eligible for reemployment under this procedure pursuant to the applicable collective bargaining agreement.

14.07 In lieu of layoff, a regular Employee may request reassignment to a position in a lateral or lower classification in which the Employee had attained regular status by successfully completing the probationary period. In such event the employee may bump the employee with the least seniority in the Classification to which reassignment is requested provided the employee is qualified to perform the assignment. An Employee who is no longer certified through the state due to having promoted or moved laterally to a civilian assignment, will be considered otherwise qualified unless he/she is unable to successfully complete the academy requirements within the first year of returning to the formerly held position. Seniority for bumping under this section shall include seniority in the classification from which the Employee was laid off and seniority in the Classification to which reassignment is requested.

14.09 The names of Employees who are laid off or displaced under this rule will be placed on the recall list for the Classification previously occupied in inverse order of layoff. The recall list will remain in effect pursuant to the applicable collective bargaining agreement.

14.11 An Employee who is laid off may request that the office place his/her name on the reemployment list for a lower Classification in the Sheriff's Office in which the Employee had attained regular status by successfully completing the probationary period. Placement on the recall list for a lower Classification will be based on seniority in the Classification from which the employee was laid off and seniority in the Classification for which recall rights are requested.

14.13 At the time of employee notification of layoff, the Sheriff's Office shall advise the Employee of the terms of this section and the employee shall advise the office within seven (7) days of any option he or she wishes to exercise under the terms of this Article.

14.15 The Appointing Authority shall notify an Employee on the recall list of his/her recall to work by certified mail to the Employee's last known address. The Employee shall respond in writing within seven (7) days of receipt of such notification or forfeit his right to recall under this Article.

14.17 An Employee who bumps into a lateral classification (*i.e.*, a Classification with an identical maximum base wage rate) shall retain the base rate he or she last held in the classification from which he or she bumps. An Employee who bumps into a lower Classification (*i.e.*, one with a lower maximum base wage rate) shall initially be placed in the highest step in the lower range not exceeding his/her former base salary. An Employee who is recalled from layoff status shall be placed at his/her former step.

## 15. LEAVES OF ABSENCE

15.01 Under all circumstances leave requests will conform to the Employee's respective collective bargaining agreement and Benton County policies and procedures.

15.02 The Appointing Authority may grant a regular Employee a leave of absence without pay for a period not exceeding twelve (12) calendar months for medical, educational or compelling personal reasons, and shall give notice of such leave to the Commission.

15.03 At the expiration of an authorized leave of absence, a regular Employee shall be returned to the same classification and salary step as was held prior to the leave of absence.

15.05 CIVIC DUTY LEAVE. Leave with pay shall be granted as necessary to allow employees to serve as a member of a jury, to take examinations for Benton County positions, or to vote. Any compensation received by the Employee for such duties, excluding mileage allowance, shall be waived, remitted to Benton County, or, in the alternative, Benton County shall pay the difference between the Employee's regular salary and the fees received. Service as a witness in matters arising from the course and scope of employment shall be considered on-duty time. Service as a witness or party to non-job related matters shall be unpaid or charged against the Employee's accrued leave balance.

15.07 OTHER LEAVE. Paid leave shall be granted Employees in accordance with federal and state laws or local codes and ordinances as required for military service, including without limitation, US Public Health and Peace Corps leave, parental and job-related disability leave.

15.09 REPLACEMENT FOR EMPLOYEES ON LEAVE. All temporary employment caused by leave of absence shall be made pursuant to Article 10.

## 16. RESIGNATION

16.01 Resignation of any Employee from the service shall be made in writing and filed with the Appointing Authority. The Secretary shall be notified of any resignation of a regular or probationary Employee in the classified service.

16.02 Regular Employees who resign in good standing may be eligible for reinstatement under Section 9.05 for two (2) years following resignation. After that date, former Employees may only be appointed to positions in the classified service by competitive examination.

16.03 Implied Resignation. The Appointing Authority may presumptively consider any Employee to have impliedly resigned upon finding that such Employee has been absent from duty without leave or authorization, or has failed to report to duty following the expiration or termination of any suspension for five (5) or more consecutive working days, or has quit or "orally resigned" and has been absent from duty for three (3) or more consecutive working days without leave or authorization. An Employee will not be determined to have resigned under this rule until five (5) days after proof of service of a written notice by delivery or by registered or certified mail to the employees last known address as filed with the Personnel Resources Department. No resignation order shall take effect if, prior thereto, the Employee reports for active duty, applies for restoration or reinstatement, or otherwise give notice to the Appointing Authority or the Personnel Resources Department Manager which, in the judgment of the Commission, rebuts the presumption of resignation.

## 17. DISCIPLINE AND DISCHARGE

17.01 The Appointing Authority may discipline a regular employee in good faith for cause. Discipline subject to this requirement is limited to suspension, demotion, reduction in salary step, denial or postponement of salary step increases, or discharge. Suspensions generally should not exceed one (1) month and should generally be employed in cases of misconduct and not for performance-based problems. Suspensions of FLSA exempt (salaried) employees are not encouraged. When used, they must be in increments of one (1) or more calendar weeks to preserve the salaried status of these employees under the FLSA. Partial week suspensions are only permitted for significant safety infractions. Such actions may be appealable to the Commission as provided herein. Oral and written warnings or reprimands, reassignments or other actions not resulting in a loss of pay are not subject to the provisions of this chapter.

17.02 Employees serving an original probationary period may be disciplined for any lawful reason and shall not be entitled to review under this rule. Employees serving a promotional probationary period shall not be entitled to request review of disciplinary demotions to the former classification but shall otherwise enjoy all rights afforded regular Employees.

17.03 The following are considered to be cause for discipline:

17.03.01 Unsatisfactory job performance including incompetency, inefficiency, carelessness or inattention to duty, negligence or dereliction of duty, unprofessional conduct or appearance or failure to maintain knowledge, skills, abilities or licenses and certifications required for effective job performance;

17.03.02 Misconduct including dishonesty, falsification or false statements, by act or omission, unprofessional or immoral conduct, or any other act of omission or commission tending to injure the reputation or effectiveness of the department, Benton County or public service;

17.03.03 Failure to maintain the required level of mental or physical fitness for the position which the employee holds;

17.03.04 Racial or sexual discrimination or harassment or prejudicial conduct;

17.03.05 Unlawful or unacceptable use, possession or sale of controlled substances or alcohol including off-duty use to the extent that the use thereof impairs or interferes with job performance and effectiveness. Violation of the requirements and conditions of the Drug Free Work-Place Act or other state and federal laws regarding substance abuse.

17.03.06 Conviction of a felony, or a misdemeanor involving moral turpitude;

17.03.07 False or fraudulent statements, cheating or fraudulent conduct as an applicant, examinee, eligible, or Employee, including misrepresentation of qualifications for employment, or such actions by others with his or her collusion;

17.03.08 Insubordination or violation of any lawful and reasonable regulation, provision of these rules or order or direction from an authorized supervisor;

17.03.09 Absence without authorization including failure to follow required procedures for notification and approval of absences and failure to return from authorized leave or leaves of absence or abuse of leave privileges.

17.03.10 Unsatisfactory attendance or punctuality

17.03.11 Acting upon or maintaining a conflict of interest, including misuse, abuse or personal use of County funds, property or equipment, acceptance of gifts or favors in exchange for the exercise of influence or the granting of considerations, or maintaining unauthorized off-duty employment.

17.03.12 Failure to maintain satisfactory working relations with the public, other employees or superiors, including intemperance or discourtesy.

17.04 ADMINISTRATIVE LEAVE. The Sheriff's Office may place an Employee on administrative leave, with or without pay, pending an investigation. To the extent the Sheriff or any subsequent appellate body finds that discipline is not sustained, the Employee shall be compensated for any loss in pay.

17.05 PERSONNEL FILES.

17.05.01 Access to the Employee's personnel file shall be limited to the Employee, his/her authorized representative, officials of Benton County and the Sheriff's Office and such other persons or agencies as may be allowed under state and Benton County laws and regulations.

17.05.02 Employees shall be provided copies of all adverse material to be included in their personnel file and shall have the right to attach statements in rebuttal or explanation, upon written request.

## 18. PREDISCIPLINARY MEETING

18.01 PREDISCIPLINARY MEETING-REQUIRED. The Appointing Authority shall provide and arrange for a predisciplinary meeting prior to demotion, suspension without pay or discharge. This meeting under Rule 18 herein is not subject to Rule 19, herein, and does not require witnesses, presentation of evidence or other formalities. It is an opportunity for an Employee to present to the Appointing Authority the Employee's response to the decision on discipline.

18.03 PRE-DISCIPLINARY MEETING-STANDARDS/NOTICE OF DISCIPLINE.

18.03.01 In the event of discipline at the level of a salary step reduction, demotion, suspension, or discharge of a regular employee, an employee shall be provided with a written notice of the basis for discipline and recommended disciplinary action. The Employee shall be given an opportunity to respond at a pre-disciplinary meeting or in writing, as to why the Appointing Authority should not take the proposed action. The Employee may have legal counsel or union representation, present at the meeting.

18.03.02 Information presented by the Sheriff's Office at the pre-disciplinary meeting 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 meetings from presenting a more detailed and complete case, including presentation of witnesses and documents not available at the pre-disciplinary meeting.

18.03.03 Should the Appointing Authority determine to discipline following the pre-disciplinary meeting, 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.

18.03.04 On appeal, the Commission shall not consider any basis for disciplinary action not previously presented to the Employee.

## 19. HEARINGS

19.01 SCOPE OF APPEALS.

19.01.01 The Commission may hear an appeal alleging violation of these rules from any Employee, Applicant or Eligible who is adversely affected by an alleged violation of Civil Service rules or Benton County ordinances and policies.

19.01.02 Any regular Employee who is demoted, reduced in pay, suspended or discharged may appeal such action to the Commission.

19.01.03 A regular Employee who is demoted while serving a promotional probationary period or a probationary Employee who is disciplined may only appeal the question of his/her probationary status and whether the rules for discipline of probationary Employees were properly followed.

19.03 APPEAL PROCEDURES AND REQUIREMENTS.

19.03.01 A notice of appeal shall be filed at the Commission offices within ten (10) calendar 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.

19.03.02 When not inconsistent with the terms of a collective bargaining agreement, the Secretary may direct the Employee to exhaust available administrative procedures before hearing the matter.

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

19.05 EXHAUSTION OF ADMINISTRATIVE REMEDIES.

19.05.01 The Secretary may, when not inconsistent with the terms of a collective bargaining agreement, direct the Employee to exhaust available administrative procedures regarding a disciplinary matter before scheduling the matter for hearing before the Commission.

19.05.02 If the Employee exhausts the available administrative procedures and continues to believe that cause has not been shown, the Employee within ten (10) 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 AND CHIEF EXAMINER/STAFF.

19.07.01 The Secretary and Chief Examiner to 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 and Chief Examiner may also conduct pre-hearing settlement conferences in order to encourage resolution of contested matters, issue subpoenas, and note depositions.

19.07.02 The Commission may authorize Commission staff to investigate any reports or appeals relating to the enforcement or application of the Civil Service rules which do not involve

a disciplinary proceeding. The staff shall report the results of the investigation to the Commission. 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.

19.07.03 As an aid to investigations authorized by the Commission, the Secretary and Chief Examiner may subpoena any documents that would be discoverable for purposes of hearing preparation and may take depositions by tape recorder 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 and Chief Examiner shall review all appeals to determine whether the Employee or Eligible has timely filed an appeal and whether the action appealed from is within the authority of the Commission. Upon a determination that the appeal is not timely, or within the authority of the Commission, the Secretary and Chief Examiner shall issue a written order of dismissal with prejudice, setting forth the basis of the dismissal. Such orders may be appealed to the Commission.

19.11 APPEALS--NOTICE OF HEARING. Upon receipt of a notice of appeal, Commission staff shall forward a copy of the notice to other affected parties. As soon as possible thereafter, but in any event within ten (10) days, a hearing before the Commission shall be set, with each party to be afforded not less than twenty (20) days' notice of such hearing. Subsequent hearings on the same appeal shall have one week's notice unless waived by the 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 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.

19.15.01 The Commission staff shall cause to be served all orders, 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.

19.15.02 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 acknowledgment of such mailing attached to the papers so served. Written acknowledgment shall be by affidavit of the person who mailed the papers, or by certificate of any attorney or Secretary and Chief Examiner.

19.15.03 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.

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

19.15.05 An appellant or petitioner is responsible for notifying the Commission in writing of any change in mailing and 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.

19.17.01 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.

19.17.02 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.

19.19.01 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 specified time and place, to give testimony or produce designated books, documents, or things under that person's control.

19.19.02 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 (3) days prior to the hearing.

19.19.03 Service of subpoena shall be made by serving a copy of the subpoena on the person named therein.

19.19.04 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 subpoena shall make an affidavit of service. Failure to file proof of service does not affect the validity of service.

19.19.05 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:

(a) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or

(b) Condition denial of a motion to quash or modify upon just and reasonable conditions.

19.23 EVIDENCE.

19.23.01 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.

19.23.02 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.

19.23.03 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. Further participation in the hearing, after objection, shall not be deemed a waiver.

19.23.04 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 and Chief Examiner.

19.23.05 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 (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) day prior to the hearing.

19.25 EXECUTIVE SESSION. The Commission may deliberate in closed session as authorized by chapter 42.30 RCW, when taking a disciplinary or other quasi-judicial case under advisement. Deliberations by the Commission are otherwise subject to chapter 42.30 RCW. No person other than staff to the Commission and legal counsel shall be present during deliberations. 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 thirty (30) days of the close of the hearing of an appeal or other proceeding heard by the Commission, unless extended by mutual consent of both parties.

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 (10) 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 Benton County would be better served, the Commission may waive the requirements of any of these rules.

19.35 ATTORNEY FEES/COSTS/EXPENSES. Each party shall pay its own attorney fees, costs and expenses, regardless of the decision of the Commission.

## 20. RETIREMENT AND DISABILITY

20.01 RETIREMENT. Employees of Benton County 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 provisions of law.

20.02 DISABILITY.

20.02.01 Employees who are unable to perform the duties of their positions by virtue of a temporary physical or mental disability may request a medical leave of absence of up to six (6) months in excess of any accrued sick leave. Such requests must be in writing and must specify the nature and expected duration of the disability period. The request must be accompanied by supporting documentation from a physician and the appointing authority may require a separate medical evaluation.

20.02.02 Employees returning from a medical leave must provide medical verification or the ability to return to full or restricted duty and the Appointing Authority may request additional verification as above.

20.02.03 When there is cause to believe that an Employee is physically or mentally unfit to perform the full duties of his/her position, an employee may be required to submit medical verification of his/her ability to work from a physician of the employer's choosing. The Employee may submit a second medical opinion from a physician of the employee's choice. In the event the medical opinions are conflicting, a third physician shall be selected who is mutually acceptable to the Appointing Authority and Employee and that opinion shall govern. If the Employee is found unfit to continue in the position the Employee shall be placed on medical leave if the disability is for less than six (6) months as provided above. If the temporary disability is expected to continue for longer than six (6) months beyond the accrued sick leave the Employee shall be terminated for medical reasons and may be eligible for reemployment or reinstatement in accordance with these rules.

## 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.

21.03.01 In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the 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 otherwise specified. References to days shall be construed to mean calendar days. When a time period ends on a Saturday, Sunday or designated Benton County holiday, the deadline shall be extended to the next regular working day.

21.03.02 Any period of time, except for the stated period of time set forth in Rule 19.27 herein, may be extended by the Secretary and Chief Examiner for no more than fourteen (14) business days upon written notice to the Commission and a showing of good cause. The motion for extension of time must be filed with the Commission offices prior to the expiration of the applicable time period.

21.03.03 The date of notice for purpose of these rules shall be the date on which notice of an action is posted in the Commissioner's office; (a) as provided in these Rules; (b) is mailed; or, delivered personally to a party to the proceeding.

21.05 CIVIL SERVICE AND COLLECTIVE BARGAINING.

The Public Employee's Collective Bargaining Act (Act), chapter 41.56 RCW, provides for collective bargaining agreements between the County and labor organizations representing employees. The Act, and applicable collective bargaining agreements, prevail over these rules in the event of conflict.