

## Civil Service Rules Change Proposal

City of Tumwater

August 10, 2022

### Newly Proposed Language

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**Proposed Rule addition:** 9.09 APPROVAL OF ELIGIBILITY LISTS.

In normal circumstances, the Commission certifies eligibility lists. In addition, the Commission authorizes the Secretary/Chief Examiner to approve a provisional certification of eligibility lists in the following circumstances:

- (a) when business needs require timely action for recruitment;
- (b) or in the event that the Commission is unable to meet to certify eligibility;
- (c) or for continuous recruitment eligibility lists.

A report of provisional eligibility list certifications made by the Secretary/Chief Examiner shall be provided to the Commission in the next regular Commission meeting for official certification.

### Legal Review

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*Correspondence with City of Tumwater Attorney*

This looks fine to me.

**Karen Kirkpatrick** | City Attorney

City of Tumwater

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**From:** James Trujillo

**Sent:** Friday, July 15, 2022 1:25 PM

**To:** Karen Kirkpatrick

**Cc:** Sharleen Johansen; Jon Weiks; Brian Hurley

**Subject:** Civil Service Rules Change -- Legal Feedback Requested by August 3rd

Hi Karen,

I would like to add the below language to our Civil Service rules. Chief Weiks is in support of the change and I don't think Chief Hurley has any objections to the change. The CS Commission is open to the idea if it is deemed legal. We would like to do this because it will help us speed up recruitment and help us be more competitive in our hiring practices. This is a similar practice to what is being done in Port Orchard.

**Proposed Rule addition: 9.09 APPROVAL OF ELIGIBILITY LISTS.**

In normal circumstances, the Commission certifies eligibility lists. In addition, the Commission authorizes the Secretary/Chief Examiner to approve a provisional certification of eligibility lists in the following circumstances:

- (a) when business needs require timely action for recruitment;
- (b) or in the event that the Commission is unable to meet to certify eligibility;
- (c) or for continuous recruitment eligibility lists.

A report of provisional eligibility list certifications made by the Secretary/Chief Examiner shall be provided to the Commission in the next regular Commission meeting for official certification.

I received the below consultation from MRSC regarding this concept and it appears we may be able to go forward using the "provisional" approval language. It is important to note that it is unlikely we would ever get to hire before the commission formally approves. This just allows us to go forward with the recruitment process as quickly as possible. I don't believe there is anything in our rules that would prevent this practice.

I'd like to bring the final language to the Commission on August 10, assuming you approve this language and would need your comments by August 3<sup>rd</sup> for the packet. Thanks for your help.

James

**MRSC Comments**

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*Correspondence with MRSC*

**From:** Steve Gross <[sgross@mrsc.org](mailto:sgross@mrsc.org)>  
**Sent:** Friday, July 15, 2022 10:27 AM  
**To:** James Trujillo <[JTrujillo@ci.tumwater.wa.us](mailto:JTrujillo@ci.tumwater.wa.us)>  
**Subject:** MRSC Inquiry: Conditional approval of eligibility lists

James,

You submitted the following inquiry: This is a Civil Service rule and legal question. Recruitment of Police Officers is becoming increasingly difficult and quickly moving to recruit officers is essential. I would like to make a change to our Civil Service rules that allows for a conditional approval of eligibility lists to progress the recruitment process quickly. I'm looking for legal advice from a knowledgeable MRSC attorney on the below language.

9.09 APPROVAL OF ELIGIBILITY LISTS. In normal circumstances, the Commission certifies eligibility lists. In addition, the Commission authorizes the Secretary/Chief Examiner to authorize conditional certification of eligibility lists in the following circumstances:

- (a) when business needs require timely action for recruitment;
- (b) or in the event that the Commission is unable to meet to certify eligibility;
- (c) or for continuous recruitment eligibility lists.

A report of eligibility list conditional certifications made by the Secretary/Chief Examiner shall be provided to the Commission in the next regular Commission meeting for official certification.

**Response:** MRSC does not claim any particular expertise in personnel or civil service matters. Also, providing a legal opinion on a specific proposed rule is outside the scope of the general consulting services MRSC provides. **I defer to your city attorney but can hopefully provide you with some information that will help you have that discussion with them.**

In looking through our inquiry database I see that MRSC, after consulting the drafter of the [Model Civil Service Rules for Washington Local Governments](#), **P. Stephen DiJulio, Foster Pepper PLLC has previously noted that absent a specific rule adopted by your city, temporary appointments can be made even if there is no list.** We have some [Examples of Civil Service Rules](#) on our website. Battle Ground's rules authorize the secretary-chief examiner to make a temporary appointment (Section 10.01). Des Moines allows the appointing authority to make **provisional appointments** (Section 10.4). Kelso allows the city manager to make a **provisional or a temporary appointment** (Section 8.12).

I see no sample rules that allow for a "conditional" list, but that does not mean there aren't some cities that may do so. But I suggest you consult with your city attorney and police chief as to whether a provisional appointment may meet your needs.

I hope this is helpful.

Steve

**Steve Gross (he/him)**  
Legal Consultant  
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